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The Bengal Code
2nd ed.
Vol. - I
1889

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Sub. - Law and Legislation / Code Containing Provincial Legislation / Code / The Bengal Code / 1889

PRE

THIS, the second volume of the s
Code, contains the unrepealed A
ernor of Bengal in Council, with (*1*) a
the Acts of the Lieutenant-Governor in
repeals and amendments affecting Beng.
Appendix, compiled from statements furn
ment of Bengal, showing places in Bengal in
Acts have been brought into force.

2. The volume is based on the official copies
served in the Legislative Department, but it is

3. The following changes have been made
Acts :—

(*a*) Sections which have been entirely repea
omitted, but, for convenience of referenc
ginal notes, or short abstracts of the subjec
have been inserted, with a note citing the re
ing enactment. Where a section has been repealed in certain localities only, it has been printed in the text, with a foot-note referring to the repealing enactment and its local extent.

(*b*) Where part of a section has been repealed, the repealed matter has been omitted and a foot-note has been inserted explaining the omission. Where part of a section has been repealed in certain localities only, the repealed matter has been printed in the text,

* The word "Bengal," as used generally throughout this volume, means the territory under the administration of the Lieutenant-Governor of Bengal.

epealing enactment

ion, a clause or words be
ne insertion has been made,
amending Act has been given
some cases in which the amend-
ply to all the areas to which the
, the amendment has been set out
not inserted in the text.
fers to another, and the reference is
ubsequent Act to be read as if made to
t Act, the reference has, as a rule, been
rdingly in reprinting the Act contain-
eference, and a foot-note has been inserted
g to the authority for making the alteration.
e instances marginal notes have been added; in
s they have been shortened or corrected.
nber and year of enactments referred to in the
have been noted in the inner margin, except
ere both appear in the text.
bic numerals have been substituted for the Roman
numerals used in the earlier Acts to denote the section numbers.

(*h*) Section numbers occurring in the text have been uniformly printed in figures instead of in words.

(*i*) Words belonging to oriental languages have been uniformly spelt.

(*j*) Lengthy sections have sometimes been divided into clauses and paragraphs.

4. The foot-notes to the text consist chiefly of (*1*) the references mentioned in clauses (*a*), (*b*), (*c*) and (*d*) of paragraph 3 above, (2) cross-references to Regulations and Acts, (3) notes of the dates on which Acts came into force, and (4) references to Gazette Notifications declaring or extending the local operation of Acts.

5. The following Acts have been omitted from this volume for the reasons mentioned :—

(*1*) the following Acts, which, although they have been repealed in the whole of Bengal by the Acts noted against each, may possibly, while Act XX of 1851 remains on the Statute-book, be still in force in the Chota Nagpore Division, namely,—

(*a*) Bengal Act I of 1866 (*Ferries*) : repealed by Bengal Act I of 1885 ;

(*b*) Bengal Act VII of 1873 (*Emigration of Labourers to Assam*) : repealed by Act I of 1882 ;

(*c*) Bengal Act V of 1876 (*Mufussal Municipalities*) : repealed by Bengal Act III of 1881 ;

(*d*) Bengal Act VI of 1878 (*Latrines*) : repealed by Bengal Act III of 1881 ; and

(*e*) Bengal Act II of 1880 (*Licenses*) : repealed by Act II of 1886 ;

(*2*) Bengal Act III of 1865 (*Fire in Ports*), the repeal by Act VIII of 1881 being treated as a total repeal ;

(*3*) Bengal Act XI of 1871 (*Census*), as being spent ;

(*4*) Bengal Act VI of 1876 (*Agrarian Disputes*), as having expired ;

(*5*) Bengal Act IV of 1881 (*Calcutta Municipality*), as having been disallowed by Her Majesty ; and

(*6*) certain Acts which have been repealed in Bengal, but are in force in Assam, and will accordingly, if necessary, be printed in the Assam Supplement.

6. This volume has been corrected up to the 31st December, 1889. A list is attached showing (*1*) the amendments required in the Chronological Tables and text of Volume I to correct that volume up to the same date, and (2) certain additions required in the present volume.

7. The earlier portion of the work connected with the preparation of this volume devolved upon my *locum tenens*, Mr. C. H. Oertel, Barrister-at-law.

8. A supplement to this work is now under preparation, which will contain the unrepealed Bengal Regulations, Local Acts of the Governor General in Council, Acts of the Lieutenant-Governor of Bengal in Council, and Regulations made under 33 Vict., Cap. 3, which are in force in Assam and not in Bengal.

F. G. WIGLEY,
Barrister-at-law.

LEGISLATIVE DEPARTMENT,
GOVERNMENT OF INDIA;
Calcutta, the 15th January, 1890.

CORRIGENDA.

VOLUME I.

Page x, last entry, second column.—*For* II *read* III.

" xxvii, Reg. XX of 1810.—*Strike out* the entries in the fourth column, and *insert* Rep., XIII of 1889.

" xl, Reg. XI of 1825, fourth column.—*Insert* Amended, Ben. Act IV of 1868.

" xlvii, Act XXI of 1836, fourth column.—*Insert* Amended, Ben. Act IV of 1864.

" xlix, Act XI of 1859, fourth column.—*For* Amended *read* Supplemented.

" l, Act IX of 1879, fourth column.—*Insert* Rep. in part, X of 1889.

" li, Act XII of 1887, fourth column.—*Insert* Rep. in part, VII of 1889.

" 26, section 51.—*For* [a] *read* [b].

" 106-110.—*Strike out* Regulation XX of 1810.

" 140, first foot-note.—*For* district of Sylhet *read* districts of Sylhet, Kámrúp, Darrang, Nowgong, Sibságar, Lakhimpur, Gáro Hills, Khási and Jaintiá Hills, Nágá Hills, Cachar and Goálpára.

Insert the following foot-note :—

The Regulation has been extended, under s. 5 of the Scheduled Districts Act, 1874, to the Darjeeling District, the Kolhan, and the Mahál of Angul—see *Calcutta Gazette*, 20th March, 1889, Part I, p. 197.

" 170, ninth line from bottom.—*For* aay *read* any.

" 343, Act X of 1859.—*Insert* the following foot-note :—

The Act now remains in force only in the Orissa Division, Manbhoom and part of the Jálpáiguri District.

" 380, foot-note.—*For* see s. 30 of the former Act *read* see s. 4 of the former and s. 30 of the latter Act.

" 408, s. 4, fourth line.—*For* or *read* for.

" 440.—*Strike out* section 17 and its preamble, and *insert* Rep., Act X of 1889.

" 442, third line.—*For* 364A *read* 64A, 64B.

" 590.—*Strike out* clause (*c*) and *insert* Rep., Act VII of 1889.

" 623, fourteenth line.—*For* 4th September *read* 14th September.

" 628.—*Insert* the following foot-note to Bengal Regulation III of 1818 :—

This Regulation has been extended, under s. 5 of the Scheduled Districts Act, 1874, to the Darjeeling District—see *Calcutta Gazette*, 20th March, 1889, Part I, p. 197.

" 633.—*Insert* the following foot-note to Act XXXIV of 1850 :—

This Act has been extended, under s. 5 of the Scheduled Districts Act, 1874, to the Darjeeling District—see *Calcutta Gazette*, 20th March, 1889, Part I, p. 197.

636.—*Insert* the following foot-note to Act III of 1858 :—

This Act has been extended, under s. 5 of the Scheduled Districts Act, 1874, to the Darjeeling District—see *Calcutta Gazette*, 20th March, 1889, Part I, p. 197.

VOLUME I—*continued.*

Page 643.—In the first entry in the second column, *for* VI *read* VII.

In the entry in the sixth column opposite Act III of 1862, *for* p. 636 *read* p. 637.

Insert the following foot-note :—

Sections 1 and 3 of Act X of 1888 have been extended, under s. 5 of the Scheduled Districts Act, 1874, to the Districts of Darjeeling and Jalpáiguri—see *Calcutta Gazette*, 2nd October, 1889, Part I, p. 831.

„ 652.—*Insert* the following foot-note to Bengal Regulation III of 1818 :—

This Regulation has been extended, under s. 5 of the Scheduled Districts Act, 1874, to the Kolhan—see *Calcutta Gazette*, 20th March, 1889, Part I, p. 197.

„ 673.—*Insert* the following foot-note to Act XIV of 1882 :—

Sections 5 and 223 to 228 of Act XIV of 1882 have been extended, under s. 5 of the Scheduled Districts Act, 1874, to the Kolhan—see *Calcutta Gazette*, 2nd October, 1889, Part I, p. 832; *ib.*, 13th March, 1889, Part. I, p. 177.

„ 674.—*Insert* the following foot-note :—

Sections 1 and 3 of Act X of 1888 have been extended, under s. 5 of the Scheduled Districts Act, 1874, to the Districts of Hazáribágh, Lohardugga and Manbhoom and Pergunnah Dhalbhoom—see *Calcutta Gazette*, 2nd October, 1889, Part I, p. 831; section 1 of Act X of 1888 has been extended, under the same Act, to the Kolhan—see *ib.*, p. 832; section 4 of Act X of 1888 has been declared, under s. 3 of the Scheduled Districts Act, 1874, to be in force in the Districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see *ib.*, p. 831.

„ 676, foot-note.—*For* 1886 *read* 1866.

„ 678, foot-note.—*After* VII of 1873 *insert* V of 1876.

„ 681.—*Insert* the following foot-note :—

Bengal Regulation III of 1818, Act XXXIV of 1850, Act III of 1858, and sections 1 and 3 of Act X of 1888 have been extended, under s. 5 of the Scheduled Districts Act, to the Mahál of Angul—see *Calcutta Gazette*, 20th March 1889, Part I, page 197; *ib.*, 2nd October, 1889, Part I, page 831.

VOLUME II.

Page 76, s. 77.—*Insert* the following foot-note to the reference to section 26 :—

Section 26 has been repealed—see page 66, *supra.*

„ 178, s. 39.—*Insert* the following foot-note to the word "extend":—

Bengal Act IV of 1871 has not been extended to any place under this power. For list of places to which the Act, as amended by Bengal Act II of 1879, has been extended, see Appendix.

„ 348, head-line.—*For* 1867 *read* 1876.

VOLUME II—*continued.*

Page 474, s. 1, fifth para.—*Insert* the following foot-note to the word "extension":—

For list of places to which Bengal Act V of 1880 has been extended, see Appendix.

" 475, s. 1, last para.—*Insert* the following foot-note to the word "notification":—

No such notification has yet been issued.

" 669, s. 3, last line.—*Insert* the following foot-note to the word "municipality":—

For list of such municipalities, see Appendix.

" 672, first line.—*Insert* the following foot-note to the word "village":—

For list of places to which Bengal Act III of 1884 has been extended under s. 8, see Appendix.

" " s. 9, second and sixth lines.—*Insert* the following foot-note to the word "notification":—

For list of notifications under s. 9, see Appendix.

" 819, third sch.—*Insert* the following foot-note:—

The district of Mymensingh has been added to this schedule—see foot-note on p. 786, *supra*.

CHRONOLOGICAL TABLE OF ALL ACTS OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

NOTE.—(*a*) Where an enactment has been repealed in part, and the residue has been subsequently repealed, the later repeal only has, as a rule, been noted.
" (*b*) When a repealing enactment has been brought into force in the same areas as the enactment thereby repealed, the latter has been simply noted as repealed by the former.
" (*c*) In the case of enactments not printed in this volume because they (1) are spent, expired or wholly repealed, or (2 remain in force only in a few unimportant districts, the entries in the third and fourth columns are printed in italics.

Year.	Number.	Subject.	Repeals and amendments affecting Bengal or Assam.	Page.
1862	I	*Hoisting Signals, Hooghly*	*Rep., XII of 1875.*	
	II	*Small Cause Courts* .	*Rep., XII of 1873.*	
	III	Amending Act XI of 1859 (Sales of land for arrears of revenue).	Rep. in part, XII of 1873. Rep. locally in Assam, Reg. I of 1886.	1
	IV	*Discipline in Great Jail, Calcutta.*	*Rep., Ben. V of 1865.*	
	V	*Survey of Steamers* .	*Rep., VI of 1884.*	
	[a]VI	Amending Act X of 1859 (Rent).	Rep. in part, VII of 1870. Rep. locally, VIII of 1885; Ben. I of 1879. Supplemented, Ben. IV of 1867, s. 5.	3
	VII	Resumption of revenue-free lands.	Rep. in part, XII of 1873; XVI of 1874. Rep. locally in Assam, Reg. I of 1886.	11
	[b]VIII	Zamindári Dáks . .	Rep. in part, XII of 1873; Ben. VII of 1880.	12
	IX	*Registration of Deeds* .	*Rep., Ben. II of 1865.*	
1863	I	*Port Canning* . .	*Rep., XII of 1875.*	
	II	Smoke-nuisances, Calcutta .	Rep. in part, XII of 1876.	14
	III	*Transport of Native Labourers.*	*Rep., Ben. II of 1870.*	
	IV	Chittagong Hill Tracts .	Rep. in part, XII of 1873. Rep., XIV of 1874 (when notified).	17

[a] Ben. Act VI of 1862 now remains in force only in the Orissa Division, Manbhoom, and part of the Jalpáiguri District.
[b] Ben. Act VIII of 1862 has been declared in force in parts of Assam—see Appendix to Assam Supplement.

Year.	Number.	Subject.	Repeals and amendments affecting Bengal or Assam.	Page.
1863	V	*Process-servers* . .	*Rep., VII of 1870.*	
	VI	*Calcutta Municipality* .	*Rep., Ben. IV of 1876.*	
1864	I	*Hackney-carriages, Calcutta.*	*Rep., Ben. V of 1866.*	
	II	Jails	Rep. in part, XII of 1873. Rep. in part and amended, Ben. V of 1865. Rep. (Assam), Reg. II of 1875.	17
	III	*District Municipal Improvement.*	*Rep., Ben. V of 1876.*	
	IV	Alteration of limits of Zilas.	Rep. locally in Assam, Reg. I of 1886.	21
	V	Canals	Rep. in part, XII of 1873.	21
	VI	*Inspection of Steam-boilers*	*Rep., Ben. III of 1879.*	
	[a]VII	Salt	Rep. in part. XII of 1873; XII of 1882. Amended, Ben. I of 1873.	8
1865	I	*Court of 24-Parganas*	*Rep., XII of 1873.*	
	II	*Registration of Deeds*		
	III	*Fire in Ports* . .	*Rep., VIII of 1881.*	
	IV	Inoculation . . .	.....	36
	V	Amending Ben. Act II of 1864 (Jails).	Rep. in part, XII of 1873. Rep. (Assam), Reg. II of 1875.	38
	VI	*Transport of Native Labourers.*	*Rep., Ben. II of 1870.*	
	VII	Slaughter-houses . .	Rep., locally, Ben. IV of 1876.	40
	[a]VIII	Sale of Under-tenures .	Rep. in part, XII of 1873.	42
	IX	*Amending Ben. Act VI of 1863 (Calcutta Municipality).*	*Rep., Ben. IV of 1876.*	
1866	[b]I	*Amending Reg. VI of 1819 (Ferries).*	*Rep. (in Bengal), Ben. I of 1885.* *Superseded (in Assam), XVII of 1878.*	

[a] Ben. Acts VII of 1864 and VIII of 1865 have been declared in force in parts of Assam—see Appendix to Assam Supplement.

[b] Ben. Act I of 1866 is possibly still in force in part of the Chota Nagpore Division—see Vol. I. p. 676. It has not, however, been printed in this volume.

Year.	Number.	Subject.	Repeals and amendments affecting Bengal or Assam.	Page.
1866	II	Police in Calcutta Suburbs	Rep. in part, Ben. II of 1867, s. 17; Ben. I of 1869, s. 8; Ben. I of 1874. Amended, Ben. II of 1886, s. 2.	46
	III	Witnesses before Legislative Council.	.....	59
	IV	Calcutta Police	Rep. in part, XII of 1873; XII of 1875; IV of 1877; Ben. II of 1867, s. 17; Ben. I of 1869, s. 8; Ben. IV of 1879. Amended, Ben. II of 1876, s. 12; Ben. II of 1886, ss. 2-4.	61
	V	Hackney-carriages	Rep. in part, XII of 1873. Amended, Ben. IV of 1878.	79
	VI	*Amending Ben. Act VI of 1863 (Calcutta Municipality).*	*Rep., Ben. IV of 1876.*	
	VII	Embankments	Rep. locally, Ben. VI of 1873.	97
	VIII	*Amending Bengal Act IV of 1866 (Calcutta Police).*	*Rep., IV of 1877.*	
	IX	*Resisting Apprehension*	*Rep., XII of 1873.*	
	X	*Port of Calcutta*	*Rep., Ben. V of 1870, s. 93.*	
1867	I	*Amending Ben. Act VI of 1863 (Calcutta Municipality).*	*Rep., Ben. IV of 1876.*	
	II	Gambling	.....	101
	III	Ships in Ports	Rep. in part, XII of 1873; XII of 1875.	105
	[a] IV	Amending Ben. Act VI of 1862 (Rent).	Rep. (locally), VIII of 1885; Ben. I of 1879.	110
	V	General Clauses	.....	111

[a] Ben. Act IV of 1867 now remains in force only in the Orissa Division, Manbhoom, and part of the Jalpaiguri District.

Year.	Number.	Subject.	Repeals and amendments affecting Bengal or Assam.	Page.
1867	VI	*Police in Towns and Municipalities.*	*Rep., Ben. V of 1876.*	
	VII	*Amending Ben. Act III of 1864 (District Municipal Improvement).*	*Rep., Ben. V of 1876.*	
	VIII	*E. I. Irrigation Co. water-rates.*	*Rep., Ben. III of 1876.*	
	IX	*Amending Ben. Acts VI of 1863 and VI of 1866 (Calcutta Municipality.)*	*Rep., Ben. IV of 1876.*	
	X	Settlement in Cuttack, &c.	.....	113
	XI	*Calcutta Police and Pauper-hospitals.*	*Rep., Ben. IV of 1876.*	
1868	I	*Survey of Steamers* .	*Rep., VI of 1884.*	
	II	*Amending Ben. Act III of 1864 (District Municipal Improvement).*	*Rep., Ben. V of 1876.*	
	III	Appeals under Reg. VII of 1822 (Settlement).	Rep. in part, XII of 1873. Rep. locally in Assam, Reg. I of 1886.	114
	IV	Amending Act IX of 1847 (Assessment of new lands)	Rep. in part, XII of 1873. Rep. locally in Assam, Reg. I of 1886.	114
	V	*Calcutta Municipality* .	*Rep., Ben. IV of 1876.*	
	VI	*Police and Conservancy of Towns.*	*Rep., Ben. V of 1876.*	
	VII	Recovery of arrears of land-revenue.	Rep. in part, XII of 1873; (in Bengal) Ben. VII of 1880. Amended, Ben. II of 1871. Supplemented (in Bengal) Ben. IV of 1875; Supplemented, Ben. VII of 1880. Rep. locally in Assam, Reg. I of 1886.	116
	VIII	*Repealing Act XXI of 1857 (Howrah).*	*Rep., XVI of 1874.*	
1869	*I	Cruelty to Animals . .	*Rep. in part, XII of 1873. Supplemented, Ben. III of 1869.	121

* Beng Act I of 1869 has been declared in force in Assam—see Appendix to Assam Supplement.

Year.	Number.	Subject.	Repeals and amendments affecting Bengal or Assam.	Page.
1869	II	Chota Nagpore Tenures	Rep. in part, VII of 1870.	123
	[a] III	Arrest for Cruelty to Animals.	.....	127
	IV	*Port of Calcutta*	*Rep., Ben. V of 1870.*	
	[b] V	Courts of Session	.....	128
	VI	*Irrigation-rates*	*Rep., Ben. III of 1876.*	
	VII	Bengal Police	.....	129
	VIII	*Suits between Landlord and Tenant.*	*Rep., VIII of 1885.*	
1870	I	*Calcutta Water-rate*	*Rep., Ben. IV of 1876.*	
	II	*Transport of Native Labourers.*	*Rep., Ben. VII of 1873.*	
	III	*Transfer of certain suits to Civil Courts.*	*Rep., XII of 1873.*	
	IV	*Court of Wards*	*Rep. in part, XII of 1873.* *Rep. (in Bengal and locally in Assam), Ben. IX of 1879.*	
	V	Calcutta Port Improvement.	Rep. in part, XII of 1873. Rep. in part and amended, Ben. IV of 1880; Ben. III of 1887. Amended, Ben. VII of 1871; Ben. I of 1881, s. 6; Ben. II of 1883. Supplemented, Ben. II of 1885.	130
	[c] VI	Village-chaukidárs	Amended, Ben. I of 1871; (in Bengal) Ben. I of 1886.	153
	VII	*Sanitary Condition of Dacca.*	*Rep., Ben. V of 1876.*	
1871	[c] I	Amending Ben. Act VI of 1870 (Village-chaukidárs).	.....	169
	II	Amending Ben. Act VII of 1868 (Recovery of Arrears of Land-revenue).	Rep. locally in Assam, Reg. I of 1886.	170

[a] Ben. Act III of 1869 has been declared in force in Assam—see Appendix to Assam Supplement.
[b] Ben. Act V of 1869 has been declared in force in parts of Assam—see Appendix to Assam Supplement.
[c] Ben. Acts VI of 1870 and I of 1871 have been extended to the district of Goálpára in Assam—see Appendix to Assam Supplement.

Year.	Number.	Subject.	Repeals and amendments affecting Bengal or Assam.	Page.
1871	III	*Fees for Survey of Steamers.*	*Rep., VI of 1884.*	
	IV	Pooree Lodging-houses .	Rep. in part (locally), Ben. V of 1876. Amended, Ben. II of 1879; Ben. I of 1884.	170
	V	*Drainage, Hooghly and Burdwan.*	*Rep., Ben. VI of 1880.*	
	VI	*Amending Ben. Act VI of 1863 (Calcutta Municipality).*	*Rep., Ben. IV of 1876.*	
	VII	Amending Ben. Act V of 1870 (Calcutta Port Improvement).	.....	179
	VIII	*Calcutta Market* . .	*Rep., Ben. IV of 1876.*	
	IX	Howrah Bridge . .	Amended, Ben. III of 1880; Ben. III of 1888.	180
	X	*District Road Cess* .	*Rep. (in Bengal), Ben. IX of 1880.*	
	XI	*Census*	*Spent.*	
1872	I	*Municipal Debt, Calcutta*	*Rep., Ben. IV of 1876.*	
	II	*Jute Warehouses* . .	*Rep., Ben. V of 1879.*	
	III	*Amending Ben. Act V of 1870 (Calcutta Port Improvement).*	*Rep., X of 1889.*	
1873	*I	Amending Ben. Act VII of 1864 (Salt).	.....	187
	II	*Amending Ben. Acts III of 1864 and VI of 1868 (District Municipal Improvement and District Towns).*	*Rep., Ben. V of 1876.*	
	III	*Excise*	*Rep., Ben. VII of 1878.*	
	IV	Registration of Births and Deaths.	Supplemented, Ben. III of 1884, Part XI.	188
	V	*Lighting-rate, Howrah* .	*Rep., Ben. III of 1884.*	

* Ben. Act I of 1873 has been declared in force in parts of Assam—see Appendix to Assam Supplement.

Year.	Number.	Subject.	Repeals and amendments affecting Bengal or Assam.	Page.
1873	[a]VI	Embankments . .	Rep. in part (in Bengal), Ben. VII of 1880; Rep. in part and amended (in Bengal), Ben. II of 1882.	191
	[b]VII	*Emigration of Labourers to Assam.*	*Rep., I of 1882.*	
1874	[a]I	Amending Ben. Act II of 1866 (Police in Calcutta Suburbs).	Rep. in part, Ben. VII of 1878.	235
	II	*Amending Ben. Act VIII of 1871 (Calcutta Market).*	*Rep., Ben. IV of 1876.*	
1875	I	*Realization of Arrears in Government Estates.*	*Rep., Ben. VII of 1880.*	
	II	*Amending Ben. Act II of 1872 (Jute Warehouses).*	*Rep., Ben. V of 1879.*	
	III	*Amending Ben. Act VI of 1864 (Inspection of Steam-boilers).*	*Rep., Ben. III of 1879.*	
	IV	Realization of Famine-loans.	Rep. in part, Ben. VII of 1880.	236
	[c]V	Survey	Rep. in part, Ben. VII of 1880.	237
1876	[c]I	Registration of Muhammadan Marriages and Divorces.	.....	256
	II	Amending Ben. Act IV of 1866 (Excise).	Rep. (except s. 12), Ben. VII of 1878.	265
	III	Irrigation . . .	Rep. in part, Ben. VII of 1880, s. 3.	265
	IV	*Calcutta Municipality* .	*Rep., Ben. II of 1888.*	
	[d]V	Mufassal Municipalities .	Rep. (in Bengal, and locally in Assam), Ben. III of 1884. Printed, Assam Supplement.	
	VI	*Agrarian Disputes* .	*Expired.*	
	VII	Land Registration . .	Rep. in part, Ben. VII of 1880. Amended, Ben. V of 1878.	292

[a] Ben. Acts VI of 1873 and I of 1874 have been declared in force in parts of Assam—see Appendix to Assam Supplement.

[b] Ben. Act VII of 1873 is possibly still in force in parts of the Chota Nagpore Division—see Vol. I, p. 678. It has not, however, been printed in this volume.

[c] Ben. Acts V of 1875 and I of 1876 have been extended to parts of Assam—see Appendix to Assam Supplement.

[d] Ben. Act V of 1876 is possibly still in force in parts of the Chota Nagpore Division—see Vol. I, p. 678. It has been extended to Assam—see Appendix to Assam Supplement.

Year.	Number.	Subject.	Repeals and amendments affecting Bengal or Assam.	Page.
1876	VIII	Estates' Partition . .	Rep. in part, Ben. VII of 1880.	320
1877	I	*Amending Ben. Acts II of 1872 and II of 1875 (Jute Warehouses).*	*Rep., Ben. V of 1879.*	
	II	*Provincial Public Works Cess.*	*Rep., Ben. IX of 1880.*	
1878	I	*License-tax . . .*	*Rep., Ben. II of 1880.*	
	II	*Extending Ben. Act VII of 1873 (Emigration to Assam) to Chittagong.*	*Rep., I of 1882.*	
	[a]III	*Powers of Settlement-officers.*	*Rep., Ben. VIII of 1879.*	
	IV	Amending Ben. Act V of 1866 (Hackney-carriages).	.....	365
	V	Amending Ben. Act VII of 1876 (Land Registration).	.....	366
	[a]VI	*Latrines . . .*	*Rep., Ben. III of 1884.*	
	[b]VII	Excise	Rep. in part, XIII of 1889; Ben. VII of 1880; Rep. in part and amended, Ben. IV of 1881. Amended, IX of 1885, s. 3; Ben. I of 1883.	366
	VIII	*Rural Police, Hazáribágh and Lohardugga.*	*Rep., Ben. V of 1887, s. 38.*	
1879	I	Chota Nagpore Landlord and Tenant Procedure.	.....	385
	II	Extending Ben. Act IV of 1871 (Pooree Lodging-houses).	Amended, Ben. I of 1884 .	420
	III	Steam-boilers . .	.....	421
	IV	Passenger-boats . .	.....	424
	V	*Jute Warehouses . .*	*Rep., Ben. IV of 1883.*	
	VI	Darjeeling Steam Tramway.	.....	425

[a] Rep. Act VI of 1878 is possibly still in force in parts of the Chota Nagpore Division—see Vol. I, p. 678. It has not, however, been printed in this volume.

[b] Ben. Act VII of 1878 has been extended to Assam—see Appendix to Assam Supplement.

Year	Number.	Subject.	Repeals and amendments affecting Bengal or Assam.	Page.
1879	VII	*Inland Steam-vessels*	*Rep. VI of 1884.*	
	[a]VIII	Settlement-officers' Powers	Rep., locally, VIII of 1885	426
	[b]IX	Court of Wards	Rep. in part (in Bengal and locally in Assam), Ben. VII of 1880. Amended (in Bengal and locally in Assam), Ben. III of 1881.	430
1880	I	Calcutta Tramways	Amended, Ben. II of 1884	450
	[c]II	*Licenses*	*Rep., II of 1886.*	
	III	Amending Ben. Act IX of 1871 (Howrah Bridge).	.....	468
	IV	Amending Ben. Act V of 1870 (Calcutta Port Improvement).	Rep. in part, Ben. II of 1883; Rep. in part and amended, Ben. I of 1881.	469
	V	Vaccination	Amended, Ben. II of 1887. Supplemented, Ben. III of 1885, ss. 92-96.	474
	VI	Drainage	.....	491
	[b]VII	Public Demands Recovery	Rep. in part, VI of 1889, s. 21; VII of 1889; locally in Assam, Reg. I of 1886.	515
	VIII	Contagious Diseases (Animals).	.....	528
	IX	Cess	Rep. in part and amended, Ben. III of 1885 (when and where declared in force). Amended, VII of 1881; Ben. II of 1881.	539
1881	I	Amending Ben. Act IV of 1880 (Calcutta Port Improvement).	.....	602
	II	Amending Ben. Act IX of 1880 (Cess).	.....	603
	[b]III	Amending Ben. Act IX of 1879 (Court of Wards).	.....	604

[a] Ben. Act VIII of 1879 has been declared in force in parts of the Chota Nagpore Division—see Vol. I, p. 679.

[b] Ben. Acts IX of 1879, VII of 1880 and III of 1881 have been extended to parts of Assam—see Appendix to Assam Supplement.

[c] Ben. Act II of 1880 is possibly still in force in parts of the Chota Nagpore Division—see Vol. I, p. 679. It has not, however, been printed in this volume.

Year.	Number.	Subject.	Repeals and amendments affecting Bengal or Assam.	Page.
1881	[a]IV	Amending Ben. Act VII of 1878 (Excise).	.....	605
	V	Calcutta Burial Board .	.....	606
	VI	*Amending Ben. Act IV of 1876 (Calcutta Municipality).*	*Rep., Ben. II of 1888.*	
1882	I	*Amending Ben. Act IV of 1876 (Calcutta Municipality).*	*Rep., Ben. II of 1888.*	
	II	Embankments . .	.....	609
1883	[a]I	Amending Ben. Act VII of 1878 (Excise).	.....	638
	II	Amending Ben. Act V of 1870 (Calcutta Port Improvement).	.....	639
	III	Tramways . . .	.....	640
	IV	Licensed Warehouses and Fire-brigade.	.....	652
	V	Darjeeling Coolies . .	.....	661
1884	I	Amending Ben. Act IV of 1871 (Pooree Lodging-houses).	.....	666
	II	Amending Ben. Act I of 1880 (Calcutta Tramways).	.....	667
	[b]III	Municipalities . .	Rep. in part, Ben II of 1888. Amended, Ben. III. of 1886; (in Bengal), Ben. I of 1888.	668
	IV	Howrah and Suburban Municipal Police.	.....	761
	V	*Amending Ben. Act IV of 1876 (Calcutta Municipality).*	*Disallowed by Her Majesty—see notification dated 9th September, 1888, in Calcutta Gazette, 26th idem, Part IB., p. 401.*	
1885	I	Ferries	.....	763
	II	Docks for Port of Calcutta.	.....	771
	III	Local Self-government .	.....	781

[a] Ben. Acts IV of 1881 and I of 1883 have been extended to Assam—see Appendix to Assam Supplement.
[b] Ben. Act III of 1884 has been extended to parts of Assam—see Appendix to Assam Supplement.

Year.	Number.	Subject.	Repeals and amendments affecting Bengal or Assam.	Page.
1886	I	Amending Ben. Act VI of 1870 (Village Chaukidárs).	.....	819
	II	Amending Ben. Acts II and IV of 1866 (Police in Calcutta and Suburbs).	.....	820
	III	Amending Ben. Act III of 1884 (Municipalities).	Rep. in part, Ben. II of 1888.	821
1887	I	Calcutta Survey	.....	821
	II	Amending Ben. Act V of 1880 (Vaccination).	.....	826
	III	Amending Ben. Act V of 1870 (Calcutta Port Improvement).	.....	827
	IV	Chittagong Port Commissioners.	.....	830
	V	Chota Nagpore Rural Police.	.....	853
1888	I	Amending Ben. Act III of 1884 (Municipalities).	.....	863
	II	Calcutta Municipality	Confirmed, XII of 1888, s. 1	883
	III	Amending Ben. Act IX of 1871 (Howrah Bridge).	.....	1016
1889	I	Inland Emigrants' Health.	.....	1017
	*II	Private Fisheries Protection.	.....	1019
	III	Loan to Corporation of Calcutta.	.....	1021
	IV	Muhammadan Burial Board.	.....	1022

* Ben. Act II of 1889 has been extended to Assam—see Appendix to Assam Supplement.

LIBRARY.

THE BENGAL CODE,

VOLUME II.

ACTS OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

ACT No. III OF 1862.[a]

Received the Lieutenant-Governor's assent on the 10th April, 1862, and the Governor General's assent on the 21st idem.

An Act to amend Act XI of 1859 (to improve the law relating to sales of land for Arrears of Revenue in the Lower Provinces under the Bengal Presidency).

WHEREAS it is expedient to extend the period allowed for the registry of under-tenures and farms, and to alter the scale of fees on certain applications for the opening of separate accounts for shares of entire estates, for deposit of money or Government securities, and for registry of under-tenures and farms; It is enacted as follows:— Preamble.

1. [*Repeal of ss. 45 and 59 of Act XI of 1859.*] *Rep. by Act XII of 1873.*

2. Applications under sections 40, 43 and 44 of Act XI of 1859,[b] for registry of tenures and farms created before the passing of Act XI of 1859, must be made within three years of the passing of this Act. Time for registration under sections 40, 43, 44, Act XI, 1859, extended.

Applications for the registry of tenures existing at the time of the passing of this Act, but created after the passing of Act XI of 1859, must be made within three months of the passing of this Act.

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[a] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2. It has been extended, under s. 5 of the Scheduled Districts Act, 1874, to the Darjeeling District, the Western Dwárs, the Districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see Vol. I, pp. 643 and 675.

The Act has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. I of 1886, s. 2, in Assam Supplement.

[b] See Vol. I, pp. 392-394.

Applications for the registry of tenures created after the passing of this Act must be made within three months of the date of the deed constituting the tenure.

Fees to be paid at rates mentioned in schedule.

3. The Collector on the part of the Government shall be entitled to demand from applicants under sections 10 and 11, sections 15 and 16, sections 40, 43 and 44, of Act XI of 1859,[a] fees not exceeding the rates specified in the schedule to this Act annexed, which schedule shall be taken as part of this Act; and applications under the said sections shall not be received unless the said fees are tendered therewith.

Act to be read as part of Act XI of 1859.

4. This Act shall be taken and read as part of the said Act XI of 1859.

SCHEDULE OF FEES.

1. For filing an application under section 10 or section 11 of Act XI of 1859, for opening a separate account for a share of an entire estate—

If the annual jama of the share do not exceed 1,000 rupees—at the rate of ten per cent. upon the jama. If the annual jama of the share exceed 1,000 rupees—at the rate of ten per cent. upon 1,000 rupees, and two per cent. upon all above that amount.

2. For filing an application for a deposit of money or Government securities under section 15 of the said Act—half per cent. on the amount deposited.

For any interest on Government securities so deposited, drawn by the Collector—half per cent. on the amount drawn.

For filing an application for withdrawal of a deposit under section 16 of the said Act—half per cent. on the amount withdrawn.

3. For filing an application, under section 40, 43 or 44 of the said Act, for the registration of an under-tenure or farm—

if the annual rent of the under-tenure or farm do not exceed 1,000 rupees—at the rate of five per cent. on the rent:

if the annual rent of the under-tenure or farm exceed 1,000 rupees—at the above rate up to 1,000 rupees, and at one per cent. on all above that amount.

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[a] See Vol. I, pp. 381, *et seq.*

ACT No. VI OF 1862.[a]

Received the Lieutenant-Governor's assent on the 22nd April, 1862, and the Governor General's assent on the 1st May, 1862.

An Act to amend Act X of 1859 (to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal).

WHEREAS it is expedient to amend Act X of 1859,[b] so far as the same relates to the Provinces subject to the Government of Bengal; It is enacted as follows:— Preamble.

1. Sections 26, 40, 74, 79, 86, 150 and 162 of Act X of 1859[b] are hereby repealed, except as regards suits under the said Act X of 1859 instituted prior to the passing of this Act. Repeal of certain sections of Act X of 1859.

2. In any suit hereafter to be brought for rent under Act X of 1859,[b] if it shall appear to the Court that the defendant has without reasonable or probable cause neglected or refused to pay the amount due by him, and that he has not before the institution of the suit tendered such amount to the plaintiff or his duly authorized agent, or, in case of refusal of the plaintiff or such agent to receive the amount tendered, has not deposited such amount with the Collector before the institution of the suit in manner hereinafter mentioned, it shall be lawful for the Court to award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five per cent. on the amount of rent decreed, as the Court may think fit. When Court may award to plaintiff additional damages not exceeding twenty-five per cent.

These damages, if awarded, as well as the amount of rent and costs decreed in the suit, shall carry interest at the rate of twelve per cent. per annum from the date of decree until payment thereof, and shall be recoverable from the defendant in like manner as sums decreed to be paid by defendants under Act X of 1859[b] are recoverable.

3. In any suit hereafter to be brought for rent under Act X of 1859,[b] if it shall appear to the Court that the plaintiff has instituted the suit against the defendant without reasonable or probable cause, or that the defendant before the institution of the suit duly deposited with the Collector in the manner hereinafter mentioned the full amount which the Court shall find to have been Court may award to defendant compensation not exceeding twenty-five per cent.

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[a] This Act has been declared in force, under s. 3 of the Scheduled Districts Act, 1874, in the District of Manbhoom—see Vol. I, p. 675.

It has been repealed by Ben. Act I of 1879, s. 3, in the Division of Chota Nagpore (except the District of Manbhoom and the Tributary Mahals) and by Act VIII of 1885, s. 2, in Bengal (except Calcutta, Orissa and the Scheduled Districts).

The Act now remains in force only in the Orissa Division, Manbhoom and part of the Jalpaiguri District.

[b] See Vol. I, p. 343.

on amount improperly sued for.

due to the plaintiff at the date of such deposit, it shall be lawful for the Court to award to the defendant by way of compensation such sum, not exceeding twenty-five per cent. on the whole amount claimed by the plaintiff, as the Court may think fit, and such sum, with interest at the rate of twelve per cent. per annum until payment thereof, shall be recoverable from the plaintiff in like manner as sums decreed to be paid by defendants under Act X of 1859[a] are recoverable.

Under-tenant or raiyat may after tender, pay into Court, without suit brought, what he admits to be due to zamindár, &c.

4. If any under-tenant or raiyat shall, at the mál kachahri for the receipt of rents or other place where the rents of the land held or cultivated by him are usually payable, tender payment of what he shall consider to be the full amount of rent due from him at the date of the tender to the zamindár or other person in receipt of the rent of such land, and if the amount so tendered shall not be accepted, and a receipt in full forthwith granted, it shall be lawful for the under-tenant or raiyat, without any suit having been instituted against him, to deposit such amount in the Collector's Court, to the credit of the zamindár or other person aforesaid: and such deposit shall, so far as the under-tenant or raiyat and all persons claiming through or under him are concerned, in all respects operate as and have the full effect of a payment then made by the under-tenant or raiyat, of the amount deposited, to such zamindár or other person.

Payment into Court to have effect of payment to zamindár or person entitled.

Proceedings on payment into Court.

5. The Collector shall receive such deposit on the application of the under-tenant or raiyat, or his agent, made in writing[b] and on the under-tenant or raiyat, or his agent, making a declaration in the form, or as nearly as circumstances will admit in the form, set forth in the Schedule A hereto annexed, and the Collector shall give a receipt for the same.

If the declaration shall contain any averment which the person making the declaration shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the law for the time being in force for the punishment of giving or fabricating false evidence.[c]

Upon receiving the money so deposited, the Collector shall issue a notice to the person to whose credit it has been deposited in the form set forth in the Schedule B hereto annexed, and such notice shall be served by the Collector, without the payment of any fee, either upon the person to whom it is addressed or upon his naib, gomastah or other agent, and in the absence of any such agent it shall be served by sticking up a copy of the same in the office of the Collector, and another copy at the mál kachahri for the receipt of rents,

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[a] See Vol. I, p. 343.
[b] Certain words of s. 5, repealed by Act VII of 1870, have here been omitted.
[c] See Act XLV of 1860, s. 193, in General Acts, 1834—66, 2nd Ed., p. 285.

or other place where the rents are usually paid for the land in respect of which the money has been deposited.

If the person to whom such notice is issued, or his duly authorized agent, shall appear and apply that the money in deposit be paid to him, it shall be immediately made over to him. **Payment to creditor.**

6. Whenever a deposit shall have been made under the provisions of this Act, no suit shall be brought against the person making the deposit or his representatives on account of any rent which accrued due prior to the date of the deposit, unless such suit is instituted within six months from the date of the service of the notice in the fifth section of this Act mentioned. **Limitation of suit for further balance.**

7. The defendant in any suit under this Act or under Act X of 1859[a] instituted after the passing of this Act may, if he have duly tendered the same to the plaintiff before the institution of the suit, pay into Court such sum of money as he shall consider to be due to the plaintiff without paying in any costs incurred by the plaintiff up to the time of such payment, and such sum shall be immediately paid out of Court to the plaintiff. **After suit brought, defendant may pay into Court, without costs, money tendered before.**

If after such payment the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into Court, the plaintiff shall be charged with the whole costs of the suit incurred by the defendant; but, if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall be charged with the whole costs of the suit. **Costs if plaintiff goes on with the suit.**

8. The defendant in any suit under this Act or under Act X of 1859[a] instituted after the passing of this Act may, without having made any tender before action brought, pay into Court such sum of money as he shall consider to be due to the plaintiff, together with the costs (to be fixed by the Court, if necessary, as of a suit originally instituted for the amount so paid into Court) incurred by the plaintiff up to the time of such payment, and such sum shall immediately be paid out of Court to the plaintiff. **If no previous tender has been made, defendant may pay into Court what he admits to be due with costs on that sum.**

If after such payment the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into Court, he shall be charged with all costs incurred by the defendant subsequently to such payment; but, if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall (including the sum paid into Court by him in the first instance on account of costs) be charged with costs as upon a suit originally instituted for the whole amount for which the plaintiff ultimately obtains a decree. **Costs if plaintiff goes on with the suit.**

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[a] See Vol. I, p. 343.

Survey and measurement of lands.

9. Every proprietor of an estate or tenure, or other person in receipt of the rents of an estate or tenure, has a right of making a general survey and measurement of the lands comprised in such estate or tenure, or any part thereof, unless restrained from doing so by express engagement with the occupants of the lands.

If any person intending to measure any land which he has a right to measure is opposed in making such measurement by the occupant of the land, or if any under-tenant or raiyat, having received notice of the intended measurement of land held or cultivated by him, which is liable to such measurement, refuses to attend and point out such land, such person may make application to the Collector, and the Collector shall thereupon proceed to enquire into the case in the manner provided for suits under Act X of 1859,[a] and shall pass a decision either allowing or disallowing the measurement, and, if the case so require, enjoining or excusing the attendance of any such under-tenant or raiyat.

If any under-tenant or raiyat, after the issue of an order enjoining his attendance, neglects to attend and to point out the land, it shall not be competent to him to contest the correctness of the measurement made or any of the proceedings held in his absence.

Measurement of lands, where it cannot be ascertained who are the persons liable to pay rent.

10. If the proprietor of an estate or tenure, or other person entitled to receive the rents of an estate or tenure, is unable to measure the lands comprised in such estate or tenure or any part thereof, by reason that he cannot ascertain who are the persons liable to pay rent in respect of the lands or any part of the lands comprised therein, such proprietor or other person may petition the Collector in respect of the lands which he cannot measure as aforesaid; and the Collector thereupon, and on the necessary costs being deposited with him by the applicant, shall proceed to measure the land and to ascertain and record the names of the persons in occupation of the same, or on the special application of the proprietor or other person aforesaid, but not otherwise, shall proceed to ascertain, determine and record the tenures and under-tenures, the rates of rent payable in respect of such lands, and the persons by whom respectively the rents are payable.

The provisions of section 67 of Act X of 1859[b] shall apply to any proceeding of the Collector instituted under this section.

If after due enquiry the Collector shall be unable to measure the land, or to ascertain or record the names of the persons in occupation of the same, or if he shall (in any case in which such special application shall have been made as aforesaid) be unable to ascertain who are the persons having tenures or under-tenures in such lands or any part thereof, then and in any such case he may

[a] See Vol. I, p. 343. [b] See Vol. I, p. 357.

declare the same to have lapsed to the party on whose petition he has made the enquiry.

If any person, within fifteen days after the Collector shall have recorded the name of such person as being in occupation of such land or any part thereof, or shall have declared a tenure to have lapsed, shall appear and show good and sufficient cause for his previous non-appearance, and shall satisfy the Collector that there has been a failure of justice, the Collector may, upon such terms or conditions as he may think proper, alter or rescind his declaration according to the justice of the case.

Save as aforesaid, the decision of the Collector on all matters enquired into and determined by him under this or the last preceding section shall be final, unless the same shall be reversed on appeal therefrom to the Civil Court.

Such appeals shall lie to the Zila Judge or to the Sadr Court, subject to the provisions and conditions contained in sections 160 and 161 of Act X of 1859.[a]

Measurements to be by pergunnah pole.

11. All measurements made under this Act shall be made by the standard pole of measurement of the pergunnah in which the land is situated.

Form of plaint in suits for arrears of rent.

12. In any suit hereafter to be brought for the recovery of an arrear of rent, the statement shall specify the name of the village and estate and of the pergunnah or other local division in which the land is situate, the yearly rent of the land, the amount (if any) received on account of the year for which the claim is made, the amount in arrear, and the time in respect of which it is alleged to be due.

If the arrear is alleged to be due from any raiyat, the statement shall further specify the quantity of land, and, where fields have been numbered in a Government survey, the number (if it be possible to give it) of each field.

Order under section 58 of Act X of 1859 to set aside judgment to be final, but rejection of application to set it aside appealable.

13. In all cases in which the Collector shall pass an order under section 58 of Act X of 1859[b] for setting aside a judgment, the order shall be final; but in all appealable cases in which the Collector shall reject the application an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable:

Provided that the appeal be preferred within the time allowed for an appeal from such final decision.[c]

Fees to agents and mukhtars.

14. So much of section 71 of Act X of 1859[d] as directs that no fee for any agent shall be charged as part of the costs of suit in any case under the Act is hereby repealed. In awarding costs to either party in any suit hereafter to be

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[a] See Vol. I, pp. 375, 376. [b] See Vol. I, p. 355.
[c] The rest of s. 13, repealed by Act VII of 1870, has here been omitted.
[d] See Vol. I, p. 358.

brought under the said Act or under this Act, it shall be competent for the Collector to award to such party, on account of the fees of any agent or mukhtar employed by him, such a sum, not exceeding the rate of fee chargeable under the provisions of section 27 of the Legal Practitioners Act, 1879,[a] for pleaders in the Civil Courts, as the Collector may direct. XVIII of 1879.

Language of Collector's judgment.

15. The Collector shall pronounce judgment in all cases tried under this Act or under Act X of 1859[b] in open Court.

The judgment shall be written in the vernacular language of the Collector, and shall contain the reasons for the same, and shall be dated and signed by the Collector at the time when it is pronounced:

Provided that if the vernacular language of the Collector be not English, and the Collector be sufficiently conversant with the English language to be able to write a clear and intelligible decision in that language, and prefer to write his judgment in it, the judgment may be written in English.

Attachment before judgment.

16. The provisions relating to attachment before judgment contained in sections 81 to 90, both inclusive, of Act VIII of 1859[c] (*for simplifying the Procedure of the Courts of the Civil Judicature not established by Royal Charter*) are hereby extended to all suits hereafter to be brought under this Act or Act X of 1859.[b]

Execution to issue at time of decree on oral application; afterwards on application in writing.

17. Process of execution in any suit hereafter to be instituted under this Act or under Act X of 1859[b] may be issued against either the person or the property of a judgment-debtor, but process shall not be issued simultaneously against both person and property.

It may be issued on the oral application of the judgment-creditor, his agent or mukhtar, made at the time the judgment is pronounced or thereafter upon the written application of the judgment-creditor, his agent or mukhtar, presented to the Court by which the judgment was given.

Process of execution or moveable property of a debtor shall be in the Form E[d] or the Form F[d] contained in the Schedule to Act X of 1859, or in

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[a] See Act XVIII of 1879 (as amended by Act IX of 1884), ss. 42 and 2, in General Acts, 1877—81, pp. 355, 343.

[b] See Vol. I, p. 343.

[c] Now see sections 483-489, 491 and 588 (24) of Act XIV of 1882, and s. 3 of the same Act, in General Acts, 1882—84, pp. 156—158, 182, 32.

[d] These Forms have not been reprinted in Vol. I—see footnote on p. 377, *ibid.* They are as follow:—

FORM E.

WRIT OF EXECUTION AGAINST THE PERSON.

A. B., Plaintiff,
C. D., Defendant.

To the Nazir of the Court of the Collector of

Whereas the said *C. D.* was directed by a decree of this Court, under date the day of 18 , to pay to *A. B.* the sum of and for costs of suit, amounting to , and whereas the said *C. D.* has omitted to pay the same, you are

a form as nearly resembling those forms as the circumstances of the case may admit.

18. If any person shall after the date of the passing of this Act be arrested under section 145 of the said Act X of 1859,[a] he shall be brought before the Collector with all convenient speed, and the Collector shall proceed forthwith to try the case.

If person is arrested under section 145 of Act X of 1859, case to be disposed of at once.

If the case cannot be at once heard and determined, the Collector may, if he think fit, require the person arrested to give security for his appearance whenever the same is required.

In default of such security the person arrested shall be committed to the civil jail till the case is heard.

19. All the powers vested in the Collector by any of the sections of this Act, or of Act X of 1859,[b] may be exercised by any Deputy Collector in cases referred to him by a Collector, and in all cases without such reference by any Deputy Collector placed in charge of any subdivision of a district, or who is specially authorized by Government to receive such cases; and all applications and reports allowed or required by the said Act X of 1859[b] or by this Act to be made to the Collector may be made to any Deputy Collector having such local jurisdiction or such special authority as aforesaid.[c]

Deputy Collector's powers.

20. Suits under this Act, or under Act X of 1859,[b] shall be preferred in the revenue office of the district, or, when a subdivision of a district has been placed under the jurisdiction of a Deputy Collector, in the revenue office

In what Court suits are to be instituted.

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hereby commanded to apprehend the said *C. D.*, and to bring him with all convenient speed before this Court to be dealt with according to law.

FORM F.

WRIT OF EXECUTION AGAINST THE EFFECTS.

A. B., Plaintiff,
C. D., Defendant.

To the Nazir of the Court of the Collector of

Whereas *C. D.* was directed by a decree of this Court, under date the day of 18 , to pay to *A. B.* the sum of and for costs of suit, amounting to , and whereas the said *C. D.* has omitted to pay the same, you are hereby commanded to levy the said sum of , and the sum of for costs of executing this process, by seizure and sale of such moveable property of the said *C. D.* as is described in the list annexed, and [*if no list is furnished, these words to be omitted*] shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell such property of the said *C. D.*, on some convenient day, not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner paid; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

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[a] See Vol. I, p. 373. [b] See Vol. I, p. 343.

[c] As to power of Lieutenant-Governor to appoint any fully qualified revenue-officer to exercise the powers of the Collector of a district for the purpose of enabling him to hear and determine appeals under Act X of 1859 and Ben. Act VI of 1862, see Ben. Act IV of 1867, s. 5, *infra*, p. 111.

of the subdivision in which the cause of action shall have arisen, or, when the cause of action shall have arisen within the limits of the local jurisdiction of any Deputy Collector not in charge of a subdivision, but who has been specially authorized by Government to receive such suits, then in the office of such last-mentioned Deputy Collector:

Provided always that the Collector may withdraw any suit from any Deputy Collector and try it himself, or refer it to another Deputy Collector.

If the lands comprised in any taluk, farm or other tenure or any lands held under one lease or engagement, or at one entire rent, in respect of which arrears of rent may be due, are situated in more than one district or subdivision, or within the local limits of the jurisdiction of more than one Deputy Collector so specially authorized as aforesaid, the district or subdivision or local limits in which the greater part of such lands is situate shall be held to be the district or subdivision or local limits in which the cause of action has arisen, and, if any question shall be raised respecting the district or subdivision or local limits within which the greater part of the lands is situate, the Board of Revenue or, if all the lands be situate in one district, the Collector of the district shall decide the question, and such decision shall be conclusive on the point of jurisdiction.

This Act to be read with Act X of 1859.

21. This Act shall be read with, and taken as part of, Act X of 1859,[a] except as regards suits instituted thereunder before the passing of this Act.

SCHEDULE A.*

I, *A. B*, of, &c., do solemnly declare that I did personally (*or* by my agent *C. D.*) on the day of tender payment to *E. F.* at his mál kachahri (*or at*), the place where the rent of the lands at held or cultivated by me under or from the said *E. F.* are usually payable, of the sum of Company's rupees as and for the whole amount due from me in respect of the rent of the said lands from the month of to the month of both inclusive. I further declare that the said *E. F.* refused to accept the said sum so tendered (*or* to give me a receipt in full forthwith for the same). And I do declare that to the best of my belief the sum of Company's rupees so tendered, and which I now desire to pay into Court, is the full amount which I owe the said *E. F.* on account of the rent of the said lands from the month of to the month of both inclusive, and that I owe the said *E. F.* no further sum on account of the rent of the said lands.

* If this Declaration is made by an agent, it must be altered accordingly.

See Vol. I, p. 343.

SCHEDULE B.*

Court of the Collector (*or* Deputy Collector) of
Dated the day of 18
To *E. F.*, of, &c.

With reference to the within declaration you are hereby informed that the sum of Company's rupees therein mentioned is now in deposit in this Court, and that the above sum will be paid to you or to your duly authorized agent on application. And take notice that, if you have any further claim or demand whatsoever to make against the said *A. B.* in respect of the rent of the said lands, you must institute a suit in Court for the establishment of such claim or demand within six calendar months from this date, otherwise your claim will be for ever barred.

* This is to be by endorsement on a copy of the Declaration under Schedule A made by the person paying the money into Court.

ACT No. VII OF 1862.*

Received the Lieutenant-Governor's assent on the 29th April, 1862, and the Governor General's assent on the 1st May, 1862.

An Act to repeal section 30 of Regulation II. 1819 (for modifying the provisions contained in the existing Regulations regarding the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the Revenue of lands not included within the limits of estates for which a settlement has been made).

WHEREAS by section 30 of Regulation II. 1819, it is enacted that certain suits preferred in a Court of judicature regarding lands held, or claimed to be held, free of assessment, shall be referred for investigation to the Collector, and that similar suits may be preferred in the first instance to the Collector; and whereas such reference of suits is unnecessary and causes inconvenience and delay in their decision, and it is advisable that such suits should be preferred Preamble.

* This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg III of 1886, s. 2; also in the Districts of Lohardugga and Manbhoom and Pergunnah Dhalbhoom under s. 3 of the Scheduled Districts Act, 1874,—see Vol. I, p. 675.

The Act has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. I of 1886, s. 2, in Assam Supplement.

and disposed of exclusively in the ordinary Courts of civil judicature; It is enacted as follows :—

1.—[*Repeal of s. 30 of Reg. II of 1819.*] *Rep. by Act XII of 1873.*

Suits for resumption of land held free of assessment and claims to hold land exempt from revenue to be tried in Civil Courts.

2. All suits preferred by proprietors, farmers or taluqdárs to resume the revenue of any land held free of assessment, as well as all suits preferred by individuals claiming to hold land exempt from the payment of revenue, shall be instituted, heard and determined in and by the Courts of civil judicature, like ordinary civil suits, and under the rules and subject to all the provisions contained in the Code of Civil Procedure[a] and not otherwise. XIV of 1882.

3, 4.—[*Application of Act to pending suits; saving of proceedings had under s. 30 of Reg. II of 1819 before passing of Act.*] *Rep. by Act XVI of 1874.*

ACT No. VIII OF 1862.[b]

Received the Lieutenant-Governor's assent on the 6th May, 1862, and the Governor General's assent on the 8th idem.

An Act to improve the system of Zamindári Dáks in the Provinces subject to the Government of Bengal.

Preamble.

WHEREAS the conveyance of letters on the public service between police-officers and police-stations and the magisterial offices of the districts subject to the Government of Bengal is defective, irregular and uncertain, and the system requires to be amended and placed on a better footing; It is enacted as follows :—

1.—[*Repeal of s. 10 of Reg. XX of 1817.*] *Rep. by Act XII of 1873.*

Appointment, removal and payment of dák-runners.

2. The appointment, removal and payment of dák-runners and other persons necessary for the performance of the service of conveying papers, letters, packets and correspondence between police-officers and police-stations and Magistrates of districts, or officers in charge of subdivisions, shall be vested exclusively in the Magistrate of each district, or in such other officer as the Government may from time to time direct.

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[a] See Act XIV of 1882, s. 3, in General Acts, 1882—84, p. 32.

[b] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2; also in the Districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan under s. 3 of the Scheduled Districts Act, 1874—see Vol. I, p. 675; also in the Districts of Sylhet and Goálpára (excluding the Eastern Dwárs) under s. 3 of the same Act—see Appendix to Assam Supplement.

3. It shall be lawful for the Magistrate of every district or for such other officer as the Government may from time to time direct to raise, as hereinafter provided, the moneys necessary for the payment of the establishments required for the purpose of efficiently maintaining the zamindári dáks within the district, from all zamindárs, sadr farmers and other persons paying revenue direct to Government in respect of lands situated within the district.

Raising of funds for maintaining zamindári dáks.

4. Provided always that no zamindári dák shall be established or maintained under this Act between any two places between which a Government post for the time being exists.

No zamindári dák where there is Government post.

5. The Magistrate or such other officer as aforesaid shall in each and every year, on or before the last day of the month of December, fix, subject to the approval and revision of the Commissioner of the division, the total sum necessary for the next ensuing year for the efficient service of the zamindári dáks in his district, and apportion such amount rateably on the sadr jama of the parties liable as aforesaid to pay the same, and shall appoint the days for the payment thereof.

Total sum necessary to be fixed and apportioned rateably on sadr jama of those liable to contribute.

6. A notice showing the amount to be levied for the ensuing year and the rateable apportionment thereof among the persons liable to pay the same, and the days appointed for payment thereof, shall be affixed in some conspicuous place in the office of the Magistrate or of such other officer as aforesaid, and also in the office of the Collector of the district, not less than fifteen days previous to the day appointed for the first half-yearly payment.

Notice of amount to be levied, its apportionment and days of payment.

7. An appeal shall lie to the Commissioner of the division from any order of a Magistrate or such other officer as aforesaid imposing on any one person a pecuniary liability for more than forty rupees a year under section 5 of this Act:

Appeal when assessment on one person exceeds forty rupees in year.

Provided that such appeal shall be presented to the Commissioner within thirty days from the date of affixing in the office of the Magistrate or of such other officer as aforesaid the notice of the imposition of the liability appealed against.

Proviso.

8. It shall be lawful for such Magistrate or other officer aforesaid, by an order to that effect, to exempt from the liability to payment of an assessment under this Act any person the sadr jama of whose estates in any one district does not exceed fifty rupees a year.

Exemption from assessment.

9. The sums leviable under this Act shall be paid into the district treasury half-yearly and in advance by the persons liable to pay the same; and any person or the local agent of any person liable to pay any sum assessed under this Act, who shall refuse or shall for the space of thirty days after the day

Payment to be half-yearly, in advance:

appointed for the payment thereof neglect to pay the same shall be liable to pay double the amount so assessed :[a]

Proviso.

Provided always that no person shall become liable to pay double the amount originally assessed, so long as any appeal instituted by him under section 7 of this Act shall be pending.

Surplus carried to credit of next year's dák-account.

10. If the whole of the sum raised for the service of any one year be not actually required for that service, the surplus shall be placed to the credit of the zamindári dák-account for the next ensuing year, and shall go in reduction of the total sum to be levied for the service of that year under this Act: and, when a double amount is levied under the last preceding section, so much thereof as is in excess of the sum for which the person from whom it is levied was in the first instance assessed shall in like manner be placed to the credit of the next ensuing year's account, and go in reduction of the total sum to be levied for that year.

Government to frame general rules.

11. The Government may from time to time frame general rules for the guidance of the authorities and for the transport of the dáks established by this Act, provided such rules be not incompatible with its provisions, or with the provisions of Act XVII of 1854[b] (*for the management of the Post Office, for the regulation of the duties of postage, and for the punishment of offences against the Post Office*), or with any rules made under that Act by the Governor General of India in Council.

Act not to affect contracts between zamindárs and under-tenants.

12. Nothing in this Act contained shall in any way affect or alter any contract or engagement made or to be made by any zamindár with any person holding under him.

Commencement.

13. This Act shall take effect on and from the first day of December next.

ACT No. II OF 1863.

Received the Lieutenant-Governor's assent on the 17th January, 1863, and the Governor General's assent on the 21st idem.

An Act to abate and prevent nuisances arising from the smoke of furnaces in the Town and Suburbs of Calcutta.

Preamble.

WHEREAS it is expedient to abate and prevent nuisances arising from the

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[a] Certain words of s. 9, repealed by Ben. Act VII of 1880, s. 8, have here been omitted; as to recovery of demands under s. 9, see ss. 7 (3) and 8 of that Act, *infra*.

[b] Act XVII of 1854 has been repealed by Act XIV of 1866, s. 3; but see s. 4 of the latter Act in General Acts, 1834—66, 2nd Ed., p. 551.

smoke of furnaces in the town and suburbs of Calcutta; It is enacted as follows :—

1. Every furnace employed or to be employed anywhere within the town or suburbs of Calcutta in the working of engines by steam, and every furnace employed or to be employed within the said town or suburbs in any works, or in any building used for the purposes of trade or manufacture (although a steam-engine be not used or employed therein), shall be constructed or altered so as to consume or burn the smoke arising from such furnace on and after the first day of July, 1864.

Furnaces in town and suburbs of Calcutta to consume their own smoke.

And if any person, on or after the said first day of July, 1864, and within the town and suburbs aforesaid, shall use any such furnace which shall not be constructed or altered so as to consume or burn its own smoke, or shall so negligently use any such furnace as that the smoke arising therefrom shall not be effectually consumed or burned, or shall not use the best practicable means for preventing or counteracting such smoke, every person so offending, being the owner or occupier of the premises, or being a foreman or other person employed by such owner or occupier in charge of such furnace, shall, upon a summary conviction for such offence before any Magistrate, forfeit and pay a sum of not more than fifty rupees, and upon a second conviction for such offence the sum of one hundred rupees, and for each subsequent conviction a sum double the amount of the penalty imposed for the last preceding conviction :

Provided always that this Act shall not apply to any locomotive engine used wholly upon any railway in the suburbs of Calcutta, nor to any steam-vessel which is not employed as a ferry-boat plying from any one place within the said town and suburbs of Calcutta to any other place within the said limits.

Exception as to locomotive engines and steam-vessels.

2. The words "consume or burn the smoke" as used in this Act shall not be held to mean "consume or burn every particle of the smoke," and the Magistrate before whom any person shall be summoned may remit the penalties enacted by this Act if he shall be satisfied that such person has so constructed or altered his furnace as to consume or burn, as far as possible, all the smoke arising from such furnace, and has carefully attended to the same, and consumed or burned, as far as possible, the smoke arising from such furnace.

"Consume or burn the smoke" defined.

3. It shall be lawful for any Magistrate to grant an order authorizing any person therein named to inspect any furnace to which the provisions of this Act shall apply and to examine the construction thereof.

Magistrate may grant order giving power to inspect furnace.

Penalty for obstructing inspection.

If the owner or occupier of any premises to which the provisions of this Act shall apply shall refuse to allow his premises to be inspected by a person duly authorized by a Magistrate for that purpose, it shall be lawful for any police-officer or other person authorized by the order in writing of a Magistrate, with or without any assistants, to enter into and upon such premises and to inspect the same and examine any furnace therein; and any person obstructing any such police-officer or other person or his assistants in the execution of any such order shall, upon a summary conviction for such offence before a Magistrate, forfeit and pay a sum not exceeding two hundred rupees.

Information how to be laid.

4. No information shall be laid against any person for the recovery of any penalty under this Act, except by the authority of a Magistrate.

"Magistrate" defined.

5. In this Act the word "Magistrate," as regards cases arising within the local limits of the town of Calcutta, shall mean any Magistrate of Police[a] for the said town, and as regards cases arising without the said town shall mean any officer having the full powers of a Magistrate:[b] and the term "suburbs of Calcutta" shall include the suburbs of Calcutta and the station of Howrah as defined and described in Act XXI of 1857[c] (*for making better provision for the order and good government of the suburbs of Calcutta and of the station of Howrah*).

"Suburbs."

Words in singular number include the plural.

6. Words used in the singular number in this Act shall be held to comprise the plural, and words used in the plural number to comprise the singular.

Recovery of penalties.

7. All penalties imposed by this Act may be recovered, if for offences not committed within the local limits of the town of Calcutta, in the manner prescribed for the recovery of fines by sections 386, 387 and 389 of the Code of Criminal Procedure, 1882,[d] and, if for offences committed within those limits, in the manner prescribed for the recovery of penalties by[e] any Act[f] for regulating the police of the town of Calcutta in force for the time being. X of 1882.

Penalties how disposed of.

All penalties to be levied under this Act shall be disposed of in such manner as the Lieutenant-Governor of Bengal from time to time shall direct.

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[a], [b] Now Presidency Magistrate and Magistrate of the first class, respectively—see Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

[c] See, as to Howrah, Vol. I, p. 329. The portion of the schedule to Act XXI of 1857 which referred to the suburbs of Calcutta has been repealed by Act XVI of 1874. It is set out on p. 37, *infra*.

[d] See Act X of 1872, s. 2, and Sch. V; also Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

[e] Certain words and figures of s. 7, repealed by Act XII of 1876, have here been omitted.

[f] See Ben. Act IV of 1866, s. 93. That section has been repealed by Act IV of 1877; but see now Act X of 1882, ss. 386, 387 and 389, in General Acts, 1882 (Pt. I), p. 350.

ACT No. IV OF 1863.[a]

Received the Lieutenant-Governor's assent on the 24th March, 1863, and the Governor General's assent on the 13th April, 1863.

An Act to amend Act XXII of 1860[b] (to remove certain tracts on the eastern border of the Chittagong District from the jurisdiction of the tribunals established under the general Regulations and Acts).

WHEREAS by Act XXII of 1860[b] certain tracts on the eastern border of the Chittagong district, described in the schedule to the said Act, were removed from the jurisdiction of the tribunals established under the general Regulations and Acts; and whereas it is expedient to make certain alterations in respect to the tracts so removed; It is enacted as follows:— Preamble.

1.[c] All the provisions of the said Act applicable to the tracts described in the said schedule shall be applicable to, and shall have effect in, the tracts described in the schedule to this Act annexed, which shall be read with and taken as part of the said Act XXII of 1860.[b] Act to be read with Act XXII of 1860.

SCHEDULE.

[*See Vol. I, p. 408.*]

ACT No. II OF 1864.[d]

Received the Lieutenant-Governor's assent on the 11th February, 1864, and the Governor General's assent on the 24th idem.

An Act for the regulation of jails and the enforcement of discipline therein.

WHEREAS it is expedient that the laws relating to jails in the Provinces under the control of the Lieutenant-Governor of Bengal should be consolidated and amended; It is enacted as follows:— Preamble.

1.—[*Laws repealed.*] *Rep. by Act XII of 1873.*

[a] Ben. Act IV of 1863 will be repealed by the Scheduled Districts Act, 1874, when that Act is brought into force in the Hill Tracts of Chittagong—see Act XIV of 1874, s. 2, in General Acts, 1867—76, 2nd Ed., p. 480.

[b] See Vol. I, p. 407.

[c] Certain words of s. 1, repealed by Act XII of 1873, have here been omitted.

[d] Ben. Act II of 1864 has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2; also in the Districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan under s. 3 of the Scheduled Districts Act, 1874—see Vol. I, p. 675.

The Act has been repealed in Assam by Reg. II of 1875—see Assam Supplement.

The provisions of ss. 3 to 8 of Ben. Act V of 1865 are to be read with and taken as part of this Act—see Ben. Act V of 1865, s. 2, *infra*, p. 38.

Interpretation.

2. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the context repugnant to such construction, that is to say:—

"Magistrate of the District."

the words "Magistrate of the District[a]" shall mean the chief officer charged with the executive administration of a district or place in criminal matters by whatever designation such officer is called:

"Magistrate."

the word "Magistrate" shall include all persons exercising all or any of the powers of a Magistrate:

"The powers of a Magistrate."

the words "the powers of a Magistrate" shall imply the full powers of a Magistrate:

"Criminal Court."

the words "Criminal Court" shall denote every Judge or Magistrate lawfully exercising jurisdiction in criminal cases, whether for the decision of such cases in the first instance or on appeal, or for commitment to any other Court or officer;

"District."

the local jurisdiction of the Magistrate of a district or place shall, for the purposes of this Act, be deemed a "district," and the local jurisdiction in a particular part of a district vested in a Magistrate other than the Magistrate of the district[a] shall be deemed a "division of a district;"

"Division of a District."

Gender.

words importing the masculine gender shall include the feminine, and

Number.

words importing the singular number shall include the plural.

Civil and criminal jails to be maintained.

3. In every district there shall be maintained a civil jail and a criminal jail, for the imprisonment of persons lawfully committed to such jails respectively.

Jails of the like description shall be maintained in every division of a district wherein the Government of Bengal may deem them to be necessary.

Central jails to be maintained.

4. In such places as the Government shall appoint, there shall be maintained central jails for the imprisonment therein of such persons committed to prison by Criminal Courts as the Government may deem to be proper subjects for such imprisonment.

5.[b]—[*Civil and Criminal Jails to be under control of Magistrate.*] *Rep. by Ben. Act V of 1865.*

Central jail under control of superintendent with powers of Magistrate.

6. Every central jail shall be under the control of a superintendent to be appointed by the Government, and such officer shall be invested with the powers of a Magistrate to be exercised for the purposes of this Act.

Government

7.[c] The Government shall from time to time make such rules as may

[a] Now District Magistrate—see Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.
[b] See now Ben. Act V of 1865, s. 3, *infra*, p. 38.
[c] The power of making rules and of appointing visitors and medical officers under s. 7 is exercisable with respect to the Presidency Jail—see Ben. Act V of 1865, s. 7, *infra*, p. 39.

appear necessary for the supervision, employment, custody, dieting and treatment of prisoners, and for the management of jails; and shall from time to time appoint such visiting and medical officers for jails as may be considered necessary for securing the observance of such rules and for the due care of the prisoners.

to make rules and appoint visiting and medical officers.

The Commissioner of the division and the Judge of the district shall respectively be *ex officio* visiting officers within the division or district.

8.[a] The Lieutenant-Governor of Bengal shall appoint such person or persons as he shall think fit to inspect and superintend, subject to the orders of the Government, the jails in every district in the said provinces, and shall vest in such person or persons such authority for the purpose as may seem proper.

Lieutenant-Governor to appoint person to inspect and superintend.

9.[a] Under such rule as the Government shall prescribe in this behalf there shall, for every jail, be appointed a jailor.

Jailor to be appointed for every jail.

10. No prisoner shall be discharged except in presence of the officer in whom the control of the jail shall be vested, or of a Magistrate.

Discharge of prisoners.

11.[a] Under such rule as the Government shall prescribe in this behalf, it shall be lawful for the officer in whom the control of a jail shall be vested to order the immediate release of any prisoner suffering from disease likely to cause death.

Release of prisoners.

12.[a] Whenever it shall appear to the Government that the number of prisoners in any jail is greater than can conveniently or safely be kept within such jail, or whenever any epidemic disease may make its appearance within such jail, it shall be lawful for the officer in whom the control of such jail shall be vested to provide, in such manner as the Government may order, for the temporary shelter and safe custody of such prisoners as may be in excess of the greatest number that can be conveniently or safely kept in the jail, or of prisoners who would be at the risk of suffering from such disease.

Temporary shelter of prisoners when jail overcrowded, or disease spreading.

Prisoners for whom such temporary shelter may be provided shall be subject to the same rules as if they were within the jail.

13. All property or money in respect whereof no order of a competent Court shall have been made, which shall be delivered with or found upon the person of a prisoner sentenced by a Criminal Court when received into a jail, shall, during such prisoner's term of imprisonment, be taken charge of by the officer in whom the control of the jail shall be vested, under such rule for the safe custody thereof as the Government shall prescribe:

Charge of property of prisoner during imprisonment.

Provided that such officer may, at his discretion, make over such property or money belonging to the prisoner to whomsoever such prisoner may indicate

Proviso.

[a] The power of making rules and of appointing jailors and inspectors under ss. 8, 9, 11 and 12 is exercisable with respect to the Presidency Jail—see Ben. Act V of 1865, s. 7, *infra*, p. 39.

Classification of prisoners.

14. Prisoners shall be classified and kept apart and in separate confinement in such manner as the Government shall by rule prescribe:

Provided that male prisoners of all classes shall be kept apart from female prisoners; prisoners committed to the civil jail from prisoners committed to the criminal jail; and prisoners convicted of offences from prisoners not convicted.

15.[a]—[*Punishment for breaches of rules, &c.*] *Rep. by Ben. Act V of 1865.*

Persons employed in jails subject to rules made by Government.

16.[b] All persons employed within any jail or in keeping prisoners in custody shall be subject to such rules as may be made by the Government for their good order and discipline and for regulating communication with prisoners, and it shall be lawful for the Government to affix fines as penalties for the breach of any such rules:

Provided that no such penalty shall exceed fifty rupees.

Copies of such rules shall be exhibited in some place to which all persons employed within the jail or in keeping prisoners in custody have access, and the officer in whom the control of the jail shall be vested shall have authority to punish persons offending against such rules.

Punishment for taking or attempting to take prohibited articles into jail.

17.[c] Whoever, without due permission, takes or attempts to take, or introduces or attempts to introduce, or throws or attemps to throw, into any part of a jail, any article prohibited by the rules to be made under this Act, or communicates or attempts to communicate with any prisoner in any mode contrary to such rules, shall be liable to be apprehended and brought before a Magistrate, and on conviction shall be liable to a fine not exceeding fifty rupees, or to imprisonment, simple or rigorous, for any term not exceeding two months.

Punishments for breaches of jail-discipline to be recorded in book.

18. The officer in whom the control of a jail shall be vested shall keep a book, in which he shall record all cases of punishments inflicted by him under this Act, stating the charge, the manner in which it was supported by evidence, and the order made.

No further punishment for same offence.

And no person who has been punished by such officer under the provisions of this Act shall be punished in any other way or by any other authority for the same offence:

Offender may be committed to the sessions.

Provided that nothing in this Act shall be held to prevent the officer in whom the control of a jail shall be vested from committing any prisoner or person employed within any jail or in keeping prisoners in custody, for trial before a Magistrate or Sessions Court whenever such prisoner or person shall

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[a] See now Ben. Act V of 1865, s. 4, *infra*, p. 38.

[b] The power of making rules under s. 16 is exercisable with respect to the Presidency Jail—see Ben. Act V of 1865, s. 7, *infra*, p. 39.

[c] The provisions of s. 17 have been extended to the Presidency Jail—see Ben. Act V of 1865 s. 8, *infra*, p. 40.

have been guilty of an offence for which the punishment authorized to be inflicted under this Act may appear inadequate.

19.—[*Saving of Ben. Act IV of 1862.*] *Rep. by Ben. Act V of 1865.*

20.—[*Commencement of Act.*] *Rep. by Act XII of 1873.*

ACT No. IV OF 1864.[a]

Received the Lieutenant-Governor's assent on the 2nd April, 1864, and the Governor General's assent on the 11th idem.

An Act to amend Act XXI of 1836.[b]

WHEREAS it is expedient to amend Act XXI of 1836; It is enacted as follows:— Preamble.

It shall be lawful for the Lieutenant-Governor of Bengal from time to time to alter the limits of existing zilas in any part of the provinces subject to the control of the said Lieutenant-Governor. Lieutenant-Governor may alter limits of existing zilas.

ACT No. V OF 1864.[c]

Received the Lieutenant-Governor's assent on the 12th April, 1864, and the Governor General's assent on the 14th May, 1864.

An Act to amend and consolidate the law relating to the collection of tolls on canals and other lines of navigation, and for the construction and improvement of lines of navigation, within the Provinces under the control of the Lieutenant-Governor of Bengal.

WHEREAS it is expedient to amend and consolidate the law relating to the collection of tolls on the canals and lines of navigation specified in the Regulations and Acts in the schedule to this Act annexed, and to authorize the collection of tolls on such other lines of navigation as may hereafter be rendered Preamble.

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[a] Ben Act IV of 1864 has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2; also in the Districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan under s. 3 of the Scheduled Districts Act, 1874—see Vol. I. p 675.

[b] The Act has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. I of 1886, s. 2, in Assam Supplement.

[c] See Vol. I, p. 276.

[d] Ben. Act V of 1864 has been declared in force in the Districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan under s. 3 of the Scheduled Districts Act, 1874—see Vol. I, p 675.

The Bengal Embankment Act, 1882, does not apply to any embankment, land or watercourse which is under the operation of this Act—see Ben Act II of 1882, s. 91, *infra*.

subject to the provisions of this Act, and to provide for the construction and improvement of lines of navigation; It is enacted as follows:—

Interpretation.

1. The following words shall have the several meanings hereby assigned to them, unless where a contrary intention shall appear from the context, that is to say:—

the word "vessel" shall include any ship, barge, boat, raft, timber, bamboos or floating materials, propelled in any manner:

"Line of navigation."

the words "line of navigation" shall mean any navigable channel subject to the provisions of this Act:

"Channel."

the word "channel" shall include any river, canal, khál, nálá or waterway, whether natural or artificial:

"Person."

the word "person" shall include any company, association or body of persons, whether incorporated or not.

Number.

Words importing the singular number shall include the plural, and words importing the plural number shall include the singular:

Gender.

Words importing the masculine gender shall include the feminine.

What navigable channels may be rendered subject to provisions of Act.

2. It shall be lawful for the Lieutenant-Governor of Bengal, from time to time, by notification to that effect published in the Calcutta Gazette, to declare that the provisions of this Act shall apply to any navigable channel[a] specified in such notification, and from and after such publication the provisions of this Act shall apply to, and be in force as regards, such navigable channel, and such of the Regulations and Acts specified in the schedule[b] to this Act as were applicable to such navigable channel shall thenceforth cease to have any force or effect as respects such channel.

By whom navigable channels may be made.

3. It shall be lawful for the Lieutenant-Governor of Bengal, from time to time, to authorize any person to make and open any navigable channel, or to clear and deepen any navigable channel, and to stop any watercourse, or make any tracking path, or do any other act necessary for the making or improvement of any such channel; and any navigable channel made under this section shall be rendered subject to the provisions of this Act in the manner prescribed in the last preceding section.

Mode of obtaining land for the purpose.

The Government of Bengal may take possession, as for a public purpose, of any land that may be necessary for the execution of any of the above-mentioned works, under the provisions of the Land Acquisition Act, 1870,[c] or of any other Act that may now or hereafter be in force for the taking possession of land for public purposes. X of 1870.

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[a] For list of channels to which this Act has been applied, see Appendix.
[b] All the enactments specified in the schedule have been repealed by Act XII of 1873.
[c] See Act X of 1870, s. 2, in General Acts, 1867—76, 2nd Ed., p. 177.

4. No action or suit shall be brought against the Secretary of State for India in Council, or the Government, in respect of any injury or damage caused by, or resulting from, any act done under the last preceding section. **Bar of suit against Government.**

5. Tolls at such rates as shall be fixed in manner hereinafter mentioned shall be paid in respect of all vessels entering upon, or passing along, any of the lines of navigation subject to the provisions of this Act: **Tolls to be paid on lines of navigation subject to Act.**

Provided that such tolls shall be payable only so long as such line of navigation shall be open. **Proviso.**

6. The Lieutenant-Governor of Bengal may fix, and from time to time alter, the rates at which such tolls shall be levied: **Lieutenant-Governor may fix and alter rates of tolls.**

Provided that no toll shall be levied, and no alteration of any rate of toll shall have effect, until notice shall have been published in the Calcutta Gazette, for such period as the said Lieutenant-Governor may fix, of the intention to levy or alter such tolls, and of the rate and place at which such toll is to be levied.

7. Notification of the rates of toll and of the places of collection shall be at all times exhibited to public view at every toll-house where toll is levied under this Act, in the English, Urdu and Bengali languages. **Publication of rates of toll at every toll-house.**

8. The Lieutenant-Governor of Bengal shall appoint such persons as he may think fit to collect tolls under this Act, and it shall be lawful for any person so appointed to farm[a] out the collection of tolls to any other person, with the sanction of the Government of Bengal, or to employ any other person in such collection. **Lieutenant-Governor to appoint persons to collect tolls, who may farm collection.**

The person to whom the collection of tolls may be farmed out, or who may be employed in the collection of them, shall have power to collect, and be authorized to receive them, in the like manner as any person appointed as aforesaid.

9. If any toll due under the provisions of this Act in respect of any vessel shall not be paid on demand to the person authorized to collect the same, it shall be lawful for such person to seize such vessel, and any furniture thereof, and to detain the same; and such person shall, within twenty-four hours of such seizure and detention, report the same to the nearest Collector or Deputy Collector of the district in which the seizure has been made, or other public officer duly authorized by Government in that behalf; and on receipt of this report the Collector, Deputy Collector or other officer as aforesaid shall publish a notice appointing a day for the sale of the said vessel and any furniture thereof. **Payment of tolls how enforced.**

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[a] As to recovery of sums due from a farmer or his surety, see Ben. Act VII of 1880, ss. 7 (4) and 8, *infra*.

The sale shall be held at some period not less than fifteen days from the date of the publication of notice of sale; and if the toll and also any expenses occasioned by non-payment be not paid, or sufficient cause for non-payment be not shown, at or before the time of sale to the Collector, Deputy Collector or other officer as aforesaid, such officer shall sell the vessel and furniture seized, or so much thereof as may be necessary to pay the toll and also any expenses occasioned by non-payment.

So much of the property seized as may not have been sold, and so much of the sale-proceeds as may be in excess of the sum necessary for satisfying the toll and for defraying the expenses occasioned by non-payment, shall be returned to the person in charge of the vessel.

Penalty for evasion of toll.

10. Any person who shall refuse or evade, or attempt to evade, any toll due under this Act shall be punished, on conviction before a Magistrate, with a fine which may extend to fifty rupees, or with simple imprisonment in lieu of fine which may extend to one month.

Rules relating to lines of navigation.

11. It shall be lawful for the Lieutenant-Governor of Bengal from time to time to make rules not repugnant to any law in force, and to repeal, alter and amend the same, for the management of any line of navigation subject to this Act, and for regulating the conduct of persons employed for any of the purposes of this Act; and the Lieutenant-Governor may affix fines as penalties for the infringement of such rules not exceeding fifty rupees for any one infringement, or five rupees a day for any continuing infringement.

Such rules may contain directions for any of the following amongst other matters:—

for determining the tonnage of vessels and their measurement;

for fixing the number and the width of vessels to be allowed to pass into, or out of, or through, any line of navigation at one time or abreast;

for determining the length of time during which vessels may remain stationary on any line of navigation and the amount of demurrage to be paid by vessels remaining stationary beyond such time;

for regulating the mode in which and the places at which tolls are to be levied under this Act;

for the removal of sunken vessels and obstructions; and

for the storing and disposal of the cargo of vessels seized under this Act.

Publication of such rules.

12. Rules shall not be passed until the same shall have been published in the Calcutta Gazette for a period of six weeks, and after that time the rules shall be published as passed, with such alterations (if any) as to the Lieutenant-Governor of Bengal shall seem fit.

The rules so published as passed shall not have effect until the expiration

of two weeks after such last publication; and all rules so published shall, until the same be repealed or altered, be of like effect as if they were inserted in this Act.

Copies of all rules in the English, Urdu and Bengali languages shall be exhibited to public view at every place where toll is collected.

Appointment of supervisor with power to remove obstructions.

13. It shall be lawful for the Government of Bengal to appoint any person to be the supervisor of any line of navigation subject to the provisions of this Act, and such person shall be empowered to cut down and remove any tree which may have fallen or may be likely to fall into such line of navigation, and to remove any sunken vessel, and to prevent or remove any other nuisance or obstruction to navigation, of whatever description, whenever he may think it necessary.

Mode of exercising such power.

14. Whenever such supervisor shall consider that the cutting down and removal of any tree or the removal of any other obstruction is necessary, he may in cases of emergency at once remove the same, and may for that purpose enter on any private property.

In cases not of an emergent nature, he shall serve a notice in writing on the owner or occupier of such private property, directing him to remove the same within a reasonable time.

If the owner or occupier cannot be found, notice may be served by notification to be affixed in some conspicuous place in the nearest village.

If the owner or occupier shall not remove the obstruction within the time given in the notice, the supervisor may proceed to remove it himself and may for that purpose enter on any private property.

Payment of all expenses of such removal may be enforced by the sale of the thing removed in the manner provided for the recovery of tolls in section 9 of this Act.

Supervisor may forbid construction of bandels, &c.

15. Whenever in the opinion of such supervisor the construction of any bandel or other contrivance for fishing, or for any other purpose, in any line of navigation is likely to cause obstruction to the free and safe transit of such line of navigation, he may, by a notice in writing to be served on the owner or person in charge of such bandel or other contrivance, or (if such owner or other person cannot be found) to be affixed at some conspicuous place in the nearest village, forbid the construction of such bandel or other contrivance.

Penalty for causing obstruction to line of navigation.

16. Any person who shall wilfully cause or shall aid in causing any obstruction to any line of navigation, or any damage to the banks or works of such line of navigation, or who shall wilfully omit to remove such obstruction after being lawfully required so to do, shall be punished on conviction before a Magistrate with simple imprisonment which may extend to one

month, or with fine which may extend to fifty rupees, or with both, and shall also be liable to pay such fine as may be sufficient to meet all reasonable expenses incurred in abating or removing such obstruction, or in repairing such damage.

Recovery of fines.

17. All fines imposed by this Act may be recovered in the manner prescribed by the Code of Criminal Procedure, 1882.[a] X of 1882.

Offences by whom punishable.

18. If any person shall be guilty of an offence against the provisions of this Act on any line of navigation subject to this Act, such offence shall be punishable by any Magistrate having jurisdiction over any district or place adjoining such line of navigation, or adjoining either side of that part of the line of navigation in which such offence shall be committed: and such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner, and to the same extent, as if such offence had been committed locally within the limits of his jurisdiction, notwithstanding the offence may not have been committed locally within such limits; and, in case any such Magistrate shall exercise the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

19.—[*Indemnity for certain acts done heretofore in the collection of tolls, &c.*] *Rep. by Act XII of 1873.*

Short title.

20. This Act may be cited as the Canals Act, 1864.

SCHEDULE OF REGULATIONS AND ACTS.[b]

(*Referred to in section 2.*)

Regulation XVIII of 1806 . .	For collecting a toll on boats passing through the Eastern Canal which connects the River Hooghly with the Sundarbans, and through the Canals commonly called the Báuká Nálá, the Kunjapur Khál, the Gowá Khál and the Náráyanpur Khál.
Regulation VIII of 1824 . .	For rescinding Regulation IV of 1813, for determining the rates of toll to be levied on boats, rafts, timbers and the like passing through the Bhagiruthee, Jelinghee, Ichchhámatí, Matabbanga and Churní Rivers, and for providing for the better collection of the toll, and for the secure navigation of the aforesaid and other navigable rivers.
Act XXII of 1836 . . .	Relating to the levy of a toll on boats, floats and rafts passing through the Circular and Eastern Canals.
Act X of 1853	To amend Act XXII of 1836.
Act XV of 1860	To amend and extend Act XXII of 1836.

[a] See Act X of 1882, s. 3 and ss. 386, *et seq.*, in General Acts, 1882 (Pt. I), pp. 242, 350.
[b] All the enactments specified in this Schedule have been repealed by Act XII of 1873.

THE SALT ACT, 1864.

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ACT No. VII OF 1864.[a]

Received the Lieutenant-Governor's assent on the 19th March, 1864, and the Governor General's assent on the 28th May, 1864.

An Act to amend and consolidate the laws relating to the manufacture, possession, transport and sale of salt in the Provinces under the control of the Lieutenant-Governor of Bengal.

Preamble.

WHEREAS it is expedient to amend and consolidate the laws relating to the manufacture, possession, transport and sale of salt in the Provinces under the control of the Lieutenant-Governor of Bengal; It is enacted as follows:—

Short title.

1. This Act may be cited as the Salt Act, 1864.

2.—[*Enactments repealed.*] *Rep. by Act XII of 1873.*

Interpretation.

3. The following words shall have the several meanings hereby assigned to them unless where a contrary intention shall appear from the context (that is to say):—

"Salt."

the word "salt" shall include every saline substance and preparation used or intended to be used with food:

"Manufacture."

the word "manufacture" shall include the preparation or collection of salt:

"Salt-work."

the words "salt-work" shall mean any place used or intended to be used for the manufacture of salt:

"Board of Revenue."

the words "Board of Revenue" shall mean the Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal:

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[a] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2; also in the Districts of Hazáribágh, Lohardugga, and Manbhoom, Pergunnah Dhalbhoom and the Kolhan, under s. 3 of the Scheduled Districts Act, 1874—see Vol. I, p. 675; also in the districts of Sylhet, Kámrúp, Nowgong, Darrang, Sibságar, Lakhimpur, Goálpára (excluding the Eastern Dwárs) and Cachar (excluding the North Cachar Hills) under s. 3 of the same Act—see Appendix to Assam Supplement.

the word "Magistrate" shall mean any person exercising the full powers of a Magistrate[a] under the Code of Criminal Procedure, 1882:[b] "Magistrate."

X of 1882.

the words "police-officer" shall include all village-police-officers: "Police-officer."

the word "ser" shall mean a weight of eighty tolas: "Ser."

the word "maund" shall mean a weight of forty sers: "Maund."

when salt is in the possession of a person's servant or agent on his account, it is in that person's possession within the meaning of this Act: Salt in possession of servant or agent.

where the doing of any act is made punishable by this Act, or by any of the rules to be made in pursuance thereof, with any penalty, the causing or procuring such act to be done shall be punishable in like manner: Causing or procuring act to be done, punishable in same manner as doing act.

the word "rawána" shall mean a written or printed permission duly issued under the provisions of this Act to possess or transport salt: "Rawána."

words importing the singular number shall include the plural, and words importing the plural number shall include the singular: Number.

words importing the masculine gender shall include the feminine. Gender.

4. Within the provinces under the control of the Lieutenant-Governor of Bengal it shall not be lawful for any person who is not duly licensed in the manner hereinafter provided to manufacture salt. Unlicensed manufacture of salt prohibited.

5. Whoever without a license duly obtained under this Act shall manufacture, or attempt to manufacture, salt shall be punished with fine which may extend to five hundred rupees, or with simple imprisonment for a term which may extend to six months, or with both. Penalty for such manufacture.

The use of each salt-work in such unlicensed manufacture shall be a separate offence within the meaning of this section, and each fire or fire-place, or place for collecting salt in any mode, used or intended to be used in such manufacture, shall be deemed a separate salt-work.

The continuing, after conviction and sentence, of the offence mentioned in the introductory part of this section, shall be considered as amounting to the commission of such offence, and shall be punishable in the same way as such offence.

6. All materials and implements used or intended to be used in manufacturing salt without a license, and all salt so manufactured, shall be confiscated. Confiscation of salt and materials.

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[a] Now Magistrate of the first class—see Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

[b] See Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

All powers which, under Ben. Act VII of 1864, may be exercised by a Magistrate may be exercised by a Magistrate of the first or second class subject to the provisions of s. 32 of the Code of Criminal Procedure, 1882, and all offences punishable under the Act may be inquired into and tried by a Magistrate of the first or second class—see Ben. Act I of 1873, ss. 1 and 2, *infra*.

Board of Revenue to grant licenses on certain conditions.

7. The Board of Revenue shall grant licenses to manufacture salt in such places in the said provinces and to such persons as they shall think fit:

Provided that no person shall obtain a license to manufacture salt unless he shall have complied with such terms and conditions for securing the payment of the duty hereinafter mentioned as may be required by the said Board.

Proprietors and others to give notice to police of unlicensed salt-works on their lands.

8. Every proprietor, tenant, under-tenant and cultivator who owns or holds land on which there shall be any salt-work not licensed under the provisions of this Act, and every náib, gumáshta, tahsildár or other agent employed by the Government or the Court of Wards or by any private proprietor on such land, shall, within ten days after the existence of any such salt-work shall have come to his knowledge, give written notice of the same to a police-officer.

If any person bound to give notice under this section shall wilfully omit or delay to give the same, he shall for every such offence be liable to a fine not exceeding five hundred rupees for each salt-work.

9.—[*Rate of duty on manufacture of salt.*] *Rep. by Act XII of 1882.*

Licensed manufacturer to provide proper warehouse.

10. Every licensed manufacturer of salt shall, before he begins to manufacture, provide a proper and secure warehouse, to be approved by the Board of Revenue, for the purpose of depositing and securing therein the salt to be manufactured; and all salt manufactured by him shall in the first instance be deposited in such warehouse.

Lieutenant-Governor to prescribe rules and impose penalties.

11. The Lieutenant-Governor of Bengal shall from time to time prescribe rules, which shall be notified in the Calcutta Gazette, for regulating the manufacture, deposit and transport of salt, and for securing the payment of the duty thereon, and shall from time to time fix penalties for infringements of such rules:

Proviso.

Provided that no rule shall be repugnant to any of the provisions of this Act, or to any law in force, and that no penalty shall exceed five hundred rupees.

Regulation of possession and transport of salt.

12. Within such limits as the Lieutenant-Governor of Bengal shall define, by notification in the Calcutta Gazette, the possession and transport of all salt shall be regulated in manner hereinafter provided.

Rawánas by whom and how granted.

13. The Board of Revenue shall grant rawánas for all salt possessed or transported within the limits so fixed, in accordance with such rules as the Government shall from time to time make in this behalf, and on payment of such fee as may be fixed in such rules.

Rawána not to be granted without payment of duty.

14. No rawána shall be granted unless the full amount of duty on the quantity of salt, to be specified in such rawána, shall have been paid.

15. It shall not be lawful to possess or transport more salt than five sers, unless the same shall be specified in a rawána granted under section 13 of this Act: Limitation of possession or transport of salt.

Provided that this section shall not apply to salt imported by sea and warehoused under the Sea Customs Act, 1878,* or to salt deposited by a manufacturer in an approved warehouse under section 10 of this Act. Proviso.

VIII of 1878.

16. Any salt exceeding five sers in quantity, which may be found within such limits as aforesaid, not specified in a rawána, shall be held to be contraband, and as such shall be seized and confiscated. Penalties for possessing or transporting salt without rawána.

The vessels, packages and covering in which such salt shall be found, and any animals or conveyances used in carrying it, shall also be seized and confiscated.

Any person possessing or transporting, or attempting to transport, such salt shall be liable to a fine not exceeding five rupees for every maund of salt so seized and confiscated.

All persons found in gangs or companies transporting, or attempting to transport, such salt, when the whole quantity exceeds ten sers, shall be liable to the like penalty, and each one of the offenders shall be liable to the whole fine.

In the cases aforesaid the fine shall be at the rate of five rupees per maund, according to the quantity of salt seized, whether more or less than one maund.

17. If any person shall possess, transport or attempt to transport, within the said limits, under a rawána, a greater quantity of salt than is specified in such rawána, the excess, as well as the quantity so specified, shall, if such excess be found on weighment to exceed two and a half per cent. on the quantity so specified, be held to be contraband, and as such shall be seized and confiscated. Punishment for transporting salt in excess of quantity specified in rawána.

Any person possessing or transporting, or attempting to transport, such salt, shall be liable to a fine of five rupees for every maund of salt in excess of the quantity so specified.

18. Salt being conveyed by a route or to a place other than that specified in such rawána shall be seized and confiscated. Confiscation of salt conveyed otherwise than as allowed.

Any person possessing or transporting, or attempting to transport, such salt, shall be liable to the penalty prescribed in section 16 of this Act.

19. Salt which may have been transported beyond the said limits shall not again be brought within those limits except under a special rawána granted for the purpose under the authority of the Board of Revenue. Salt transported beyond limits not to be

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* See Act VIII of 1878, s. 2, in General Acts, 1877—81, p. 184.

again brought within them without special rawána.

Any salt brought within such limits without such special rawána shall be seized and confiscated, and the persons in whose possession it may be found shall be liable to the penalty prescribed in section 16 of this Act for the possession of contraband salt.

It shall be competent to the said Board to withhold or grant such rawána.

Salt sold or lost within limits to be certified on back of rawána.

20. All persons possessed of salt specified in a rawána, who may sell, lose or otherwise dispose of any portion of such salt within the said limits, shall certify on the back of such rawána the quantity sold, lost or disposed of by them.

Penalty for omitting to certify sale or loss.

21. Whoever within the said limits sells, loses or disposes of salt, and wilfully or negligently omits to certify such sale, loss or disposal thereof in the manner above described, shall be liable to a fine not exceeding five rupees for every maund so sold, lost or disposed of by him, and any salt in his possession, not exceeding twice the quantity sold, lost or disposed of, may be seized by an officer in charge of the police-station as security for the payment of such fine.

If whole quantity be sold within limits or whole or part carried beyond, rawána to be delivered up.

22. If all the salt specified in a rawána be disposed of within the said limits, such rawána shall be delivered up to the officer in charge of the police-station within which the last parcel of the salt shall have been disposed of.

If any part of the salt specified in such rawána be carried beyond the said limits, such rawána shall in that case be delivered up to the officer in charge of the last police-station which such salt may have to pass before being carried beyond the said limits.

Inspection of salt-works by police-officers.

23. Any police-officer may enter and inspect, at any time by day or night, any salt-work, or any warehouse or premises in which salt is stored.

Arrest of persons carrying salt liable to confiscation.

24. Any police-officer may arrest any person carrying or in possession of contraband salt, and may seize the vessels, packages and covering, and any animals or conveyances, used in carrying such salt.

Salt seized may be weighed by police-officer.

25. For the purposes of the preceding section and of sections 16 and 17 of the Act, it shall be lawful for the officer in charge of the police-station within which the salt shall be found to cause the same to be weighed.

Persons arrested to be forthwith taken before Magistrate and detained or admitted to bail.

26. Any person arrested on the ground that he has been guilty of an offence under this Act shall forthwith be taken before a Magistrate or Justice of the Peace, who may, if he see reasonable cause, order such person to be detained in custody until the case shall have been disposed of in the manner hereinafter provided:

Provided that any person so detained shall be liberated on giving recog-

nizance or security to appear at such time and place as shall be appointed for his appearance.

Magistrate may issue search-warrant on application.

27. It shall be lawful for the Magistrate of a district, or division of a district, on application by a police-officer, stating his belief that salt is manufactured in any place within such district or division contrary to the provisions of this Act, or that salt not specified in a rawána is kept or concealed in any house, boat or place in such district or division, to issue a warrant to search for such salt.

Such warrant shall be executed in the same way and shall have the same effect as a search-warrant issued under the Code of Criminal Procedure, 1882.[a]

X of 1882.

It shall be lawful for any Magistrate of the town of Calcutta, on the like application in reference to salt believed to be manufactured in Calcutta contrary to the provisions of this Act, or kept or concealed contrary to the provisions of this Act in any house, boat or place in Calcutta, to issue a warrant, which shall be executed in the same way and shall have the same effect as a search-warrant under the Calcutta Police Act, 1866.[b]

Ben. IV of 1866.

Rules regarding entry of house by force.

28. Whenever any officer in charge of a police-station shall have reasonable cause to believe from information (which shall be taken down in writing) that salt is being manufactured in any place contrary to the provisions of this Act, or that salt not specified in a rawána is kept or concealed in any house, boat or place, such officer may, between sunrise and sunset, but always in the presence of another police-officer, enter into any such house, boat or place, and in case of resistance may break open any door and remove any obstacle to such entry; and may seize and carry away all such salt so found, and all materials and implements used, or intended to be used, in the manufacture, and may arrest all persons concerned in the manufacture, or in the keeping and concealing of such salt:

Provided that, whenever it shall be necessary to enter any house in such manner, the rules for entering a house in execution of a search-warrant, prescribed in Chapter XXVII and sections 415 to 420 (both inclusive) of the Code of Criminal Procedure,[c] and in the said Calcutta Police Act, 1866,[b] shall be observed by the officer effecting such entry.

of 1872.
Ben. IV of 1866.

Magistrate may summon persons and adjudge confiscations.

29. When any salt or other property shall be seized as contraband, any Magistrate within the district or division of a district wherein the same may be seized may, upon the information of any police-officer, summon the person in possession of such salt or other property, or to whom the same may belong,

[a] See Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.
[b] See Ben. Act I of 1873, s. 3, *infra*.
[c] See Act X of 1872, s. 2 and Sch V. These references should now be taken to be made to the corresponding provisions of Act X of 1882—see s. 3 of that Act, in General Acts, 1882 (Pt. I), p. 242.

to appear before him, and upon such appearance, or in default thereof, may examine into the cause of the seizure thereof, and may adjudge the same to be confiscated.

Rules of Criminal Procedure Code applied.

30. The rules contained in the Code of Criminal Procedure, 1882,[a] for the trial of cases before a Magistrate, and for appeal against orders passed by a Magistrate, shall be applicable to adjudications under the last preceding section. X of 1882.

Seizures within Calcutta to be determined on by Justice of the Peace.

31. When any salt or other property shall be seized under this Act as liable to confiscation within the local limits of the town of Calcutta, such seizure shall, upon information exhibited by any police-officer, be heard and determined in a summary way by a Justice of the Peace for the town of Calcutta, and such Justice shall cause the person in possession of such salt or other property, or to whom the same may belong, to be summoned to appear before him, and upon such appearance, or in default thereof, shall enquire into the cause of such seizure, and may adjudge the same to be confiscated.

On confiscation, salt to vest in Her Majesty.

32. When the confiscation of any salt or other property shall be adjudged under the three last preceding sections, the same shall thereupon belong to, and vest in, Her Majesty, and a warrant shall be issued by the Court to a police-officer directing him to hold the salt or other property confiscated at the disposal of the Board of Revenue.

Penalty for vexatious seizures and arrests.

33. Any police-officer who shall vexatiously and unnecessarily seize the goods or chattels of any person on the pretence of seizing or searching for contraband salt, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess beyond what is required for the execution of his duty, shall be liable to a fine not exceeding five hundred rupees, or to simple imprisonment for a term not exceeding six months.

Punishment on second and subsequent convictions.

34. Whenever any person shall be convicted of an offence against this Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to simple imprisonment for a period not exceeding six months, and a like punishment of imprisonment not exceeding six months shall be inflicted, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

Enforcement of penalties.

35. All penalties imposed by this Act may be enforced, if for offences not committed within the local limits of the town of Calcutta, in the manner prescribed by the Code of Criminal Procedure, 1882,[a] and if for offences committed X of 1882.

[a] See Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

within those limits, in the manner prescribed by the said Calcutta Police Act, 1866,[a] or any other Act for regulating the police of the town of Calcutta in force for the time being.

Ben. IV of 1866.

Period of imprisonment in default of payment of fine.

36. In every case in which an offender shall be sentenced to a fine, the Court which sentences such offender shall direct by the sentence that, in default of payment of the fine, such offender shall be imprisoned for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced.

The term of imprisonment shall be fixed according to the following scale,—that is to say, when the fine shall not exceed fifty rupees, such term shall not exceed two months; when the fine shall not exceed one hundred rupees, such term shall not exceed four months; and in any other case shall not exceed six months.

The fine, or any part thereof which shall remain unpaid, may be levied at any time within six years after the passing of the sentence, and the death of the offender shall not discharge from liability any property which would after his death be legally liable for his debts.

Limitation as to charge.

37. No charge of an offence under this Act shall be instituted except within six months after the commission of such offence.

Bar of certiorari as to Justices' proceedings. Quashing judgments.

38. No writ of certiorari shall be issued at the suit of any party out of the High Court of Judicature, to supersede, stay, remove or in anywise affect any information or judicial proceeding before any Justice of the Peace in pursuance of this Act, and no judgment thereupon shall be quashed, except for error of law apparent on the face of the judgment.

Board of Revenue may mitigate penalties.

39. When any confiscation or penalty shall be adjudged under this Act, the Board of Revenue, within three months after final judgment, may call for the proceedings of the case, and if they shall see cause may direct that the seizure or any part thereof be restored, and may remit the penalty or part thereof and direct that the offender be discharged.

Disposal of proceeds of seizure and fines.

40. All fines paid or levied under section 35 of this Act shall be at the disposal of the Board of Revenue, and the said Board may appropriate the same or any portion thereof, and the proceeds of any seizure or any portion of such proceeds, to form a fund for rewarding the police of such grades as may be determined by the said Board, and for rewarding informers, and for compensating persons subjected to annoyance or injury by any proceedings under this Act.

Limitation of suits, &c.

41. No suit, action or other proceedings shall be commenced against any person for anything done in pursuance of this Act, without giving to such

[a] See Ben. Act I of 1873, s. 3, *infra*.

person a month's previous notice in writing of the intended suit, action or other proceeding, and of the cause thereof: nor after the expiration of three months from the accrual of the cause of suit, action or other proceeding.

42.—[*Commencement of Act.*] *Rep. by Act XII of 1873.*

SCHEDULE.

[*Enactments repealed.*] *Rep. by Act XII of 1873.*

ACT No. IV OF 1865.[a]

Received the Lieutenant-Governor's assent on the 27th March, 1865, and the Governor General's assent on the 5th April, 1865.

An Act for the prohibition of the practice of inoculation in the town and suburbs of Calcutta and in towns to which Act III of 1864,[b] passed by the Lieutenant-Governor of Bengal in Council, has been or shall hereafter be extended.

Preamble.

WHEREAS it is found that small-pox is spread by inoculators who infect persons living in towns without adopting any precaution against contagion; and whereas proper and sufficient arrangements have been made in the town of Calcutta and in its suburbs, and in certain other towns in the province of Bengal, for the vaccination or inoculation with the cow-pox of the inhabitants thereof respectively; and it is desirable to prohibit by law the practice of inoculation with the small-pox in such towns and places; It is enacted as follows:—

Penalty for inoculating or otherwise producing small-pox.

1. Any person who shall hereafter produce, or attempt to produce, in any person, by inoculation with variolous matter, or by wilful exposure to variolous matter, or to any matter, article or thing impregnated with variolous matter, or who shall wilfully, by any other means whatsoever, produce the disease of small-pox in any person, shall be liable, on conviction before a Magistrate, to imprisonment of either description for a period not exceeding three months, or to a fine not exceeding two hundred rupees, or to both.

Penalty for entering place subject to Act, without certificate, before forty days from date of inoculation.

2. If any person, having been inoculated with the small-pox in a place to which the provisions of this Act shall not at the time be applicable, shall afterwards enter the town of Calcutta, or any other town or place to which such provisions shall then be applicable, before the lapse of forty days from the date of such inoculation, or without a certificate from a qualified medical officer stating that such person is no longer likely to cause contagion, such

[a] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2.

[b] Ben. Act III of 1864 has been repealed by Ben. Act V of 1876, which again has been repealed by Ben. Act III of 1884.

person shall be liable, on conviction before a Magistrate, to imprisonment of either description for a period not exceeding three months, or to a fine not exceeding two hundred rupees, or to both.

Act where to take effect.

3. This Act shall take effect in the town of Calcutta and in the station of Howrah and suburbs of Calcutta, as the same are defined in the schedule appended to Act XXI of 1857[a] (*to make better provision for the order and good government of the suburbs of Calcutta and of the station of Howrah*), from the date of the passing of this Act; and it shall be lawful for the Lieutenant-Governor of Bengal, at any time after such date, by notification published in the Calcutta Gazette, to extend this Act to any town or place to which Act III of 1864,[b] passed by the Lieutenant-Governor of Bengal in Council (*the District Municipal Improvement Act*), shall then apply, or in which there shall then be any military cantonment, or in which it shall appear to the Lieutenant-Governor of Bengal that, at the time of such notification, there exist proper and sufficient arrangements for the inoculation of the inhabitants thereof with the cow-pox.

X of 1882

Mode of procedure.

4. The provisions of the Code of Criminal Procedure, 1882,[c] relative to the meaning thereby assigned to the word "Magistrate," and to cases triable under Chapter XX, and the provisions applicable to summons cases, of the said Code,[c] and to the recovery of fines, shall apply to the case of any offence committed against this Act beyond the town of Calcutta; and the provisions of Act XIII of 1856[d] (*for regulating the Police of the Towns of Calcutta, Madras and Bombay*), and of Act XLVIII of 1860[d] (*to amend Act XIII of 1856*), or any other Act[e] for regulating the police of the town of Calcutta for the time being in force, shall apply to the case of any such offence committed within the said town.

Whenever the convicting Magistrate shall sentence the offender to fine, it shall be lawful for such Magistrate to award any portion, not exceeding one half, of such fine to the person on whose information such offender has been convicted.

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[a] See, as to Howrah, Vol. I, p. 329. The portion of the schedule to Act XXI of 1857 which referred to the suburbs of Calcutta has been repealed by Act XVI of 1874. It ran as follows:—

"Suburbs of Calcutta.

"The villages composing the Government estate of Punchanogram, and all lands belonging to any other estate which are situate within the general limits of the said Government estate.

"Garden Reach or Moocheekhola—Ramnugger—Singeratee—Indree—Sonaie—Borrberiah—Rajahrampoor—Bhookylas—Dukhin Sherepoor—Kidderpoor—Bykantpoor—Adee Gunga Chur—Ram chunderpoor—Ekbalpoor—Mominpoor—Balrampoor—Alleepoor—Jeerant—Radhanuggur—Gopalnuggur—Doorgapoor—Chetlah—Jarool—Dowlutpoor—Sonadanga—Manjrat—Moyapoor—Shurburpoor."

[b] Ben. Act III of 1864 has been repealed by Ben. Act V of 1876, which again has been repealed by Ben Act III of 1884.

[c] See Act X of 1872, s. 2 and Sch. V; also Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 212.

[d] Acts XIII of 1856 and XLVIII of 1860 have been repealed as to Calcutta by Ben. Act IV of 1866.

[e] See the Calcutta Police Act, IV of 1866, *infra*, p. 61.

ACT V OF 1865.[a]

Received the Lieutenant-Governor's assent on the 5th April, 1865, and the Governor General's assent on the 10th idem.

An Act to amend Act II of 1864[b] passed by the Lieutenant-Governor of Bengal in Council (an Act for the regulation of Jails and the enforcement of discipline therein), and to extend the provisions thereof to the Presidency Jail.

Preamble.

WHEREAS it is expedient to amend certain provisions of Act II of 1864[b] passed by the Lieutenant-Governor of Bengal in Council; and whereas by Act XII of 1865[c] of the Governor General of India in Council the custody of persons confined in the Great Jail of Calcutta is vested in an officer to be appointed by the Government of Bengal; It is enacted as follows:—

1.—[*Repeal of Ben. Act IV of 1862.*] *Rep. by Act XII of 1873.*

Sections to be read with Ben. Act II of 1864.

2.[d] The following sections shall be read with, and taken as part of, the said Act II of 1864.[b]

Control of civil and criminal jails.

3. The civil and criminal jail in every district shall, unless the Government shall invest some other officer with the control thereof, be under the control of the Magistrate of the district,[e] or of any Magistrate to whom the Magistrate of the district[e] may make over the control thereof; and the jails in any division of a district shall be under the control of the Magistrate who shall be in charge of such division, acting under the instructions of the Magistrate of the district.[e]

Punishment for breaches of rules and of jail-discipline.

4. It shall be lawful for the officer in whom the control of a jail shall be vested to enquire into all breaches of the rules that may be made under this Act, and to punish prisoners guilty of any breach thereof, or of violent or refractory conduct, or of using insolent language, or of refusing or wilfully neglecting to perform the work, or of wilfully mismanaging the work allotted to them, or of wilfully disabling themselves for labour.

Such punishment may consist of separate confinement, of corporal punishment not exceeding thirty stripes of a rattan, or of confinement in irons for a period not exceeding one month in the case of a first offence, and for a

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[a] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2; also in the Districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan, under s. 3 of the Scheduled Districts Act, 1874—see Vol. I, p. 675.

The Act has been repealed in Assam by Reg. II of 1875—see Assam Supplement.

[b] See *supra*, p. 17.

[c] Act XII of 1865 has been repealed by Act XII of 1867.

[d] Certain words of s. 2, repealed by Act XII of 1873, have here been omitted.

[e] Now District Magistrate—see Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

period not exceeding six months in the case of a second offence of the same description:

Provided that corporal punishment or confinement in irons shall not be inflicted on any female prisoner or on any person imprisoned in a civil jail, and that confinement in irons may be inflicted on hardened offenders for any period not exceeding one year.

Power to confine in irons prisoners sentenced to rigorous imprisonment.

5. In any case in which the officer in whom the control of the jail shall be vested shall consider it necessary for the safe custody of any prisoner who shall have been sentenced to rigorous imprisonment that such prisoner should be confined in irons, it shall be lawful for such officer so to confine the said prisoner:

Provided that, in every case in which any prisoner shall be confined in irons solely under the provisions of this section, it shall be the duty of the officer in whom the control of the jails shall be vested to report the circumstances under which such prisoner shall have been so confined, without delay, to the officer who shall have been appointed by the Lieutenant-Governor of Bengal under section 8 of the said Act II of 1864.[a]

Power to confine in irons prisoner convicted of escaping or attempting to escape.

6. If any prisoner, whether he shall have been sentenced to rigorous or only to simple imprisonment, shall be convicted, under section 224 of the Indian Penal Code,[b] of having attempted to escape from such imprisonment, it shall be lawful for the officer in whom the control of the jail shall be vested, in carrying into execution the remainder of such sentence or imprisonment, or any portion of the punishment to which such prisoner may be sentenced for such attempt, to confine the said prisoner in irons for a period not exceeding one year in the case of a first offence, and for the whole term of imprisonment to which the said prisoner shall have been sentenced in the case of a second or any subsequent offence.

XLV of 1860.

Powers of Lieutenant-Governor in respect of Presidency jail.

7. From and after the passing of this Act the power of making rules and of appointing visitors, medical-officers, jailors and inspectors, which by sections 7, 8, 9, 11, 12, 15[c] and 16 of the said Act II of 1864[a] are vested in the Government of Bengal, may be exercised by such Government with respect to the Presidency jail, and all persons confined and to be confined therein; and the said Government shall have the power of transferring prisoners from any jail within the provinces under its control to any other jail within the same limits, provided that such transfer shall, on the report of the person or persons appointed under section 8 of Act II of 1864,[a] appear necessary.

Powers of

8. From and after the passing of this Act all and singular the powers

[a] For Ben. Act II of 1864, see *supra*, p. 17.
[b] See General Acts, 1834—66, 2nd Ed., p. 294.
[c] S. 15 of Ben. Act II of 1864 has been repealed by the repealed portion of s. 2 of this Act.

Superintendent of Presidency jail.

and authorities which by the said Act II of 1864[a] and by this Act are conferred on the officer in whom the control of a jail shall be vested shall and may, as respects persons confined or to be confined in the said Presidency jail, be exercised by the Superintendent of the Presidency jail.

The provisions of section 17 of the said Act II of 1864[a] are hereby extended to the said Presidency jail.

ACT No. VII OF 1865.[b]

Received the Lieutenant-Governor's assent on the 11th April, 1865, and the Governor General's assent on the 15th idem.

An Act to make provision for the better regulation and supervision of Public Slaughter-Houses in the Suburbs of Calcutta, and for the adoption of proper Conservancy arrangements connected therewith.

Preamble.

WHEREAS it is necessary to make provision for the better regulation and supervision of public slaughter-houses and markets for the sale of meat and fish in the Suburbs of Calcutta and for the adoption of proper conservancy arrangements connected therewith; It is enacted as follows:—

No place within the Suburbs to be used as a slaughter-house without a license.

1. No place within the jurisdiction of the Municipal Commissioners of the Suburbs of the Town of Calcutta appointed under the provisions of Act III of 1864,[c] passed by the Lieutenant-Governor of Bengal in Council (*the District Municipal Improvement Act*), shall be used as a slaughter-house, unless a license in writing for the use thereof as a slaughter-house has been obtained from the Municipal Commissioners, who are hereby empowered, at their discretion, from time to time, to grant such license; and whoever, without such license, uses as a slaughter-house any place within the limits aforesaid, shall be liable to a penalty not exceeding two hundred rupees, and to a penalty not exceeding fifty rupees, for every day, after the conviction for such offence, during which the said offence is continued: Provided that nothing in this Act shall apply to any Hindu or Muhammadan place of worship.

Municipal Commissioners may provide places for slaughter-houses, and may make bye-laws for the management and regulation thereof.

2. The Municipal Commissioners may, from time to time, if they shall think fit, with the sanction of the Government of Bengal, provide places for the purpose of being used as slaughter-houses, and they may make bye-laws for, and with respect to, the management, regulation and charges for the use of such places.

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[a] For Ben. Act II of 1864, see *supra*, p. 17.

[b] This Act has been repealed, so far as the same applied to Suburbs, by Ben. Act IV of 1876; but see s. 9, *infra*, p. 42.

[c] Ben. Act III of 1864 has been repealed by Ben. Act V of 1876, which again has been repealed by Ben. Act III of 1884.

3. Every owner or occupier of any licensed slaughter-house, within the limits aforesaid, shall cause such drains to be made therein as shall be considered sufficient by the Municipal Commissioners, and (if required so to do by the Municipal Commissioners) shall cause all the floors and drains to be paved with stone or burnt brick, and shall also cause a supply of water to be provided, sufficient for keeping such slaughter-house, or any place used as a meat market, in a clean and wholesome state; and, if such owner or occupier, after notice in writing given to him by the Municipal Commissioners that such market or slaughter-house is defective in any of the said particulars and requiring him to remedy the defect specified within not less than thirty days, makes default therein, he shall be liable to a penalty not exceeding fifty rupees, for every day during which such default is continued.

Licensed slaughter-houses to be properly drained.

4. The Municipal Commissioners may, in the manner prescribed and under the conditions laid down in section 84 of the said Act III of 1864,[a] make bye-laws for the inspection of all markets for the sale of meat or fish within the limits aforesaid, and for the management and conduct of the business therein, and for keeping the same in a cleanly and proper state, and for removing filth at least once in every twenty-four hours.

Commissioners may make bye-laws for the inspection of markets and slaughter-houses.

5. The Municipal Commissioners, or any person appointed by them for that purpose, may, at all reasonable times, with or without assistants, enter into and inspect any market, building, shop, stall or place used for the sale of butcher's meat, poultry or fish, or as a slaughter-house, and may examine any animal, carcase or meat which may be therein; and, in case any animal, carcase, meat or fish appear to be intended for the food of man and to be unfit for such food, may seize the same; and if it appear to a Magistrate, upon the evidence of a competent person, that such animal, carcase, meat or fish is unfit for the food of man, he shall order the same to be destroyed, or to be so disposed of as to prevent its being exposed for sale or used for such food; and the owner thereof, or the person in whose possession the same is found, shall be liable to a penalty not exceeding one hundred rupees.

Commissioners may enter and inspect slaughter-houses, shops, &c., and may seize unwholesome articles exposed for sale.

6. The Magistrate before whom any person is convicted of an offence contrary to the provisions of this Act, relating to slaughter-houses, or of the non-observance of any of the bye-laws relating thereto, may, in addition to the penalty imposed on such person under the authority of this Act, suspend such license for any period not exceeding two months, and, upon conviction for a second or other subsequent like offence, such license may, in addition to the penalty imposed under the authority of this Act, be revoked.

Suspension or revocation of license.

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[a] See third foot-note on preceding page.

Penalty for using slaughter-houses during suspension or revocation of license.

7. Whoever, during the period for which any such license is suspended, or after the same is revoked as aforesaid, slaughters cattle, or allows cattle to be slaughtered in the slaughter-house to which such license relates, shall be liable to a penalty not exceeding one hundred rupees for every day, after the conviction for such offence, during which the said offence is continued.

Certain provisions of Ben. Act III of 1864 rendered applicable.

8. The provisions of the said Act III of 1864,[a] in regard to prosecutions for offences and the enforcement of fines and forfeitures, shall be applicable to all prosecutions for offences and the recovery of fines and forfeitures under this Act; and the magisterial powers conferred upon the Municipal Commissioners by section 6 of the above Act shall be exercised by them for all the purposes of this Act.

The provisions of this Act may be extended to places under Ben. Act III of 1864.

9. It shall be lawful for the Lieutenant-Governor of Bengal to extend, by notification in the Calcutta Gazette, the provisions of this Act, or of any specific portion thereof, to any towns or places[b] in which the said Act III of 1864[a] may be in force.

ACT No. VIII OF 1865.[c]

Received the Lieutenant-Governor's assent on the 10th May, 1865, and the Governor General's assent on the 27th idem.

An Act to amend the law for the sale of such under-tenures as by the title-deeds or established usage of the country are transferable by sale or otherwise for the recovery of arrears of rent due in respect thereof.

Preamble

WHEREAS doubts have arisen, in consequence of the repeal of section 16 of Regulation VII of 1832,[d] as to the authority by whom patni taluqs and other saleable under-tenures of the nature defined in clause 1 of section 8 of Regulation VIII of 1819[e] are to be sold for arrears of rent due to the proprietor on account thereof; and whereas it is expedient to amend the law for the sale of under-tenures in satisfaction of decrees for the recovery of such arrears; It is enacted as follows:—

"Collector" defined.

1. The word "Collector" as used in this Act includes all officers exercising the full powers of a Collector of a district.

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[a] See third foot-note on page 40.

[b] For list of places to which Ben. Act VII of 1865 has been extended, see Appendix.

[c] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2; also in the Districts of Hazáribágh, Lohardugga and Manbhoom and Pergunnah Dhalbhoom, under s. 3 of the Scheduled Districts Act, 1874—see Vol. I, p. 676; also in the District of Sylhet under s. 3 of the same Act—see Appendix to Assam Supplement.

[d] Ben. Reg. VII of 1832 was repealed by Act VI of 1871.

[e] See Vol. I, page 164.

Words used in the singular number include the plural. Number.

2.—[*Laws repealed.*] *Rep. by Act XII of 1873.*

3. The sale for the recovery of arrears of rent of patni taluqs and other saleable under-tenures of the nature defined in clause 1 of section 8 of Regulation VIII of 1819[a] shall be conducted by the Collector of land-revenue in whose jurisdiction, as defined by Act VI of 1853,[b] the lands lie, and all acts preparatory to, or connected with, the sale of such under-tenures as aforesaid, which, by Regulations VIII of 1819 and I of 1820,[c] the Judge is required to perform, shall be performed by the said Collector. Sale by whom conducted.

4. Whenever a decree for an arrear of rent, due in respect of an under-tenure saleable under the provisions of section 105 of Act X of 1859[d] shall have been obtained, and an application for the sale of the said under-tenure under the same section shall have been made and allowed, the Collector in whose Court the decree is in course of execution shall thereupon cause to be hung up in his own Court and in that of the Collector and the Judge of the district within which the land comprised in the under-tenure to be sold is situated, and to be affixed on some conspicuous place on the land and in the town or village in or nearest to which the said land is situated, a notice for the sale of the said under-tenure on some fixed date not less than twenty days from the hanging up of the said notice in the Court in which the decree is in course of execution. Publication of notice of sale.

5. The said notice shall specify, in the words used in the plaint in the suit in which the decree was made, the name of the village, estate and pergunnah, or other local division, in which the land comprised in the said under-tenure is situated, the yearly rent payable under the said under-tenure, and the gross amount recoverable under the said decree. Contents of notice of sale.

6. If the sum due under the decree, together with interest to date of payment and all costs of process, be paid into Court at any time before the sale commences, whether by the defaulting holder of the under-tenure or any one on his behalf, or any one interested in the protection of the under-tenure, such sale shall not take place; and the provisions of section 13 of Regulation VIII of 1819,[e] for the recovery of sums paid by other than the defaulting holder of the under-tenure to stay the sale of the under-tenure, shall be applicable to all similar payments made under this section. How sale may be stopped.

7. The under-tenure shall be sold to the highest bidder in open Court. Sale to highest bidder.

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[a] See Vol. I, p. 164. [b] See Vol. I, p. 288. [c] See Vol. I, p. 173.

[d] See Vol. I, p. 363. Act X of 1859 has been repealed by Act VIII of 1885, s. 2 (*1*), in Bengal (except Calcutta, Orissa and the Scheduled Districts), but see s. 2 (*3*) of that Act, in Vol. I, p. 512.

[e] See Vol. I, p. 167.

Deposit by purchaser

8. The party who shall be declared to be the purchaser shall be required to deposit immediately, in cash or Government currency-notes, twenty-five per cent. of the amount of his bid; and, in default of such deposit, the under-tenure shall be put up again and sold forthwith, or on the next ensuing office-day.

Deposit forfeited if balance of purchase-money not paid up.

9. The full amount of the purchase-money shall be made good by the purchaser before sunset of the eighth day from that on which the sale of the under-tenure took place, reckoning that day as one of the eight; or, if the eighth day be a Sunday or other close holiday, then on the first office-day after the eighth day: and, in default of payment within the prescribed period as aforesaid, the deposit shall be forfeited to the Government, and the under-tenure shall be re-sold, and the defaulting purchaser shall forfeit all claims thereto or to any part of the sum for which the said under-tenure may be subsequently sold.

If the proceeds of the sale which may be eventually completed be less than the price bid by the defaulting purchaser, the difference shall be leviable from him under the law for enforcing the payment of money in satisfaction of a decree for arrears of rent.

Provisions as to sales to apply to re-sales.

10. The provisions of all the sections of this Act with regard to sales shall also be applicable to all re-sales under this Act which may be rendered necessary by the default of any purchaser.

Certificate and possession to be given to purchaser on payment in full.

11. When the purchase-money shall have been paid in full, the officer holding the sale shall give the purchaser a certificate in the form prescribed in the schedule annexed to this Act; and shall further, on the purchaser making application and depositing the requisite costs, depute an officer or amin to put him in possession of the under-tenure in the customary manner, and to publish the fact of the purchase to the cultivators of the lands comprised therein.

Proceeds of sale how dealt with.

12. From the proceeds of the sale of the under-tenure the officer holding such sale shall repay to the judgment-creditor the necessary expenses incurred by him in procuring it; and, after satisfying the decree in execution of which the sale was made, shall hold the residue, if any, in deposit on account of the defaulting holder of the under-tenure.

Appeal.

13. An appeal shall lie to the Collector from any proceedings of a Deputy or Assistant Collector, if made within fifteen days; and to the Commissioner from any original proceedings of a Collector under this Act if made within thirty days from the date of the sale: but no proceedings under this Act shall be reversed or modified in appeal, except upon the ground of irrelevancy of the law, or of such an irregularity in procedure as, in the opinion of the

appellate authority, has caused injury to the interests of one of the parties to the suit in which the decree was passed.

Power of revision.

14. No appeal as of right shall lie from any order passed in appeal under this Act; but a Commissioner in any case in which an appeal has been heard by a Collector, and the Board of Revenue in any case in which an appeal has been heard by the Commissioner, may call for the record at any time within three months from the date of the order passed in appeal, and pass thereon such orders as they may think proper.

Recovery by purchaser of purchase-money if sale set aside.

15. If any sale of an under-tenure shall, under either of the two preceding sections, be set aside, the purchaser shall be entitled to receive back the purchase-money with or without interest, and in such manner as the appellate or revising authority may in each instance direct.

Any order for the recovery of the purchase-money or interest, passed by such appellate or revising authority as aforesaid, may be enforced by the process in force under decrees for the recovery of arrears of rent.

Purchaser to acquire the under-tenure, with certain exceptions, free of incumbrances.

16. The purchaser of an under-tenure sold under this Act shall acquire it free from all incumbrances which may have accrued thereon by any act of any holder of the said under-tenure, his representatives or assignees, unless the right of making such incumbrances shall have been expressly vested in the holder by the written engagement under which the under-tenure was created, or by the subsequent written authority of the person who created it, his representatives or assignees:

Provided that nothing herein contained shall be held to entitle the purchaser to eject khúdkásht raiyats or resident and hereditary cultivators, nor to cancel *bonâ fide* engagements made with such class of raiyats or cultivators aforesaid by the late incumbent of the under-tenure or his representatives, except it be proved, in a regular suit, to be brought by such purchaser for the adjustment of his rent, that a higher rent would have been demandable at the time such engagements were contracted by his predecessor.

Nothing in this section shall be held to apply to the purchase of a tenure by the previous holder thereof, through whose default the tenure was brought to sale.

Zamindár how to proceed if purchaser do not register.

17. The purchaser of an under-tenure sold under this Act shall apply to the zamindár or other landholder, within fifteen days from the day of sale, to have his name registered in the zamindár or other landholder's books as the purchaser; and shall execute a kabúliyat on the same terms and conditions on which the under-tenure was held by the defaulter; and, if such application be not made within fifteen days, it shall be lawful for the zamíndár or other

landholder to sue the said purchaser under the provisions of clause 1 of section 23 of Act X of 1859.[a]

18.—[*Indemnity.*] *Rep. by Act XII of 1873.*

SCHEDULE.

(*Referred to in section 11.*)

I certify that *A. B.* has purchased, under Act VIII of 1865, the under-tenure (*as specified in the notice of sale*), and that his purchase took effect on the day of (*being the day after that fixed for the last day of payment*).

(Signed) *C. D.*,
Collector.

ACT No. II OF 1866.[b]

Received the Lieutenant-Governor's assent on the 1st March, 1866, and the Governor General's assent on the 14th idem.

An Act to provide for the better regulation of the Police within the suburbs of the town of Calcutta.

Preamble.

WHEREAS it is expedient to exclude the suburbs of the town of Calcutta from the general police-district of Bengal, and to make provision for the better regulation of the police within the limits so excluded; It is enacted as follows:—

Suburbs may be excluded from general police-district.

1. It shall be lawful for the Lieutenant-Governor of Bengal to exclude the suburbs of the town of Calcutta, or any portion thereof, from the general police-district of the provinces subject to his control, and the limits of the tract of country so excluded shall be defined in a notification to be published in the Calcutta Gazette, and the operation of this Act shall be confined to such limits:[c]

Provided that it shall be lawful for the said Lieutenant-Governor from time to time to alter such limits by such notification as aforesaid.

Police for suburbs

2. For the suburbs of the town of Calcutta so defined as aforesaid there shall be a police-force, which shall consist of such number of officers and men, and shall be otherwise constituted in such manner, as shall be from time to time ordered by the Lieutenant-Governor of Bengal.

Police to be under control of Commis-

3. The police-force of the suburbs of the town of Calcutta shall be under the exclusive direction and control of the Commissioner of Police for the

[a] See Vol. I, p 317. Act X of 1859 has been repealed by Act VIII of 1885, s. 2 (*1*), in Bengal (except Calcutta, Orissa and the Scheduled Districts), but see s. 2 (*3*) of that Act, in Vol. I, p 512.

[b] Offences punishable under this Act are to be inquired into and tried under ss. 5 and 29 of the Code of Criminal Procedure, 1882—see Ben Act I of 1874, s. 2, *infra*

[c] For notification under s 1, defining the limits of the suburbs of Calcutta, see Calcutta Gazette, 22nd September, 1880, Pt. I, p. 851.

town of Calcutta, who may from time to time, subject to the approbation of the said Lieutenant-Governor, frame such orders and regulations as he shall deem expedient relative to the general government of the force, the places of residence, the classification, rank, distribution and particular service of the several members thereof, their inspection, and the description of arms, accoutrements and other necessaries to be furnished to them; and all such other orders and regulations relative to the said police-force as the said Commissioner shall, from time to time, deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties.

sioner of Police, Calcutta.

4. The appointment of the members of the police-force shall rest with the Commissioner of Police, and he may, at any time, suspend or dismiss any member of the force whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Appointment, &c., of force to rest with Commissioner.

5. For any lesser breach of discipline, or other misconduct not requiring the suspension or dismissal of the offender, a member of the police-force may be fined by the Commissioner any sum not exceeding one half of his monthly pay.

Commissioner may fine for lesser breaches of discipline.

6. For neglect or violation of duty in his office, and for any breach of the orders and regulations framed as aforesaid, every member of the police-force, besides being suspended or dismissed from his employment, at the discretion of the Commissioner, shall be liable, on conviction before a Magistrate, to a fine not exceeding one hundred rupees (which may be deducted from any salary then due to such offender), or to imprisonment, simple or rigorous, for any term not exceeding three months.

Additional penalties for neglect of duty, &c.

7. No member of the police-force to be enrolled under this Act shall be at liberty to resign his office, or to withdraw himself from the duties thereof, unless expressly allowed so to do in writing by the Commissioner, or unless he shall have given to the Commissioner six months' notice of his intention if a member of the mounted branch of the said force, and two months' notice if a member of any other branch; and every member of the said force who shall so resign or withdraw himself without such leave or notice shall be liable, on the order of the Commissioner, to forfeit all arrears of pay then due to him; and, on the sentence of a Magistrate, to pay a fine not exceeding fifty rupees, or to undergo imprisonment of either description for any term not exceeding two months.

Police not to resign without notice.

8. Every member of the police-force shall receive on his enrolment a certificate in the form hereunto annexed, under the signature of the Commissioner of Police, by virtue of which he shall be vested with the powers, functions and privileges of a police-officer.

On enrolment police-officer to receive certificate.

Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise removed from employment in the force.

Penalty for dismissed members not delivering up clothing, &c.

9. Every member of the police-force who shall be dismissed from or shall cease to hold and exercise his office, and who shall not forthwith deliver up his certificate, and all the clothing, accoutrements and appointments, and other necessaries which may have been supplied to him for the execution of his duty, to the Commissioner or to such person and at such time and place as shall be directed by the said Commissioner, shall be liable, on conviction before a Magistrate, to imprisonment of either description for any term not exceeding one month.

And it shall be lawful for the Commissioner, or for any Magistrate, to issue his warrant to search for and seize all the clothing, accoutrements, appointments and other necessaries which shall not be so delivered over wherever the same may be found.

Superannuation fund.

10. There shall be deducted from the pay of every member of the police-force, of a class not entitled to the benefit of the Uncovenanted Service Pension-rules, a sum after such rate as the said Lieutenant-Governor shall direct, not exceeding one anna in the rupee; which sum so deducted shall, from time to time, be invested in such manner, and in such securities, as the said Lieutenant-Governor may in writing direct, and the said sum so invested, together with the interest and dividends thereof, shall form a fund, to be called "The Police Superannuation Fund," and shall be applied from time to time to payment of such superannuation or retiring allowances or gratuities as may be ordered by the said Lieutenant-Governor at any time to any of the aforesaid members of the police-force:

Proviso.

Provided that any police-officer may be dismissed or removed without a superannuation-allowance, and that no police-officer shall be entitled as of right to any allowance from the said fund, or shall retain any right to a refund of any deduction made from his pay while he shall have been a police-officer.

Disposal of proceeds of certain fines, &c.

11. The moneys accruing from stoppages from members of the police-force during absence from sickness or other cause, and from fines imposed on members thereof for misconduct, and from fines imposed by Magistrates upon drunken persons, or for assaults upon police-officers, and all moneys from the sale of worn or cast-off clothing or other articles supplied for the use of the police, shall be applied in aid of any fund applicable to police-purposes.

Appointment of special police officers.

12. The Commissioner of Police may, of his own authority, appoint special police officers to assist on any temporary emergency.

Powers of special police-officers.

13. Every special police-officer so appointed shall have the same powers, privileges and protection, and shall be liable to perform the same duties, and

shall be amenable to the same penalties, and be subordinate to the same authorities, as the ordinary officers of police.

Penalty for special police-officer neglecting or refusing to serve, &c.

14. If any person, being appointed a special police-officer as aforesaid, shall, without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable, upon conviction before a Magistrate, to a fine not exceeding fifty rupees for every such neglect, refusal or disobedience.

Appointment of additional police-officers on application of private persons.

15. The Commissioner of Police may also, if he shall think fit, on the application of any person shewing the necessity of it, appoint any additional number of police-officers to keep the peace at any place within the limits of the operation of this Act, at the charge of the person applying, but subject to the orders of the said Commissioner, and for such time as he shall think fit; and every such police-officer shall receive a certificate, by virtue of which he shall be vested with all the powers, privileges and duties of the police-officers belonging to the ordinary force:

Provided that the person upon whose application such appointment shall have been made may, upon giving one month's notice in writing to the Commissioner of Police, require that the police officers so appointed at his expense shall be discontinued, and thereupon the said Commissioner shall discontinue such additional police-officers; and all moneys received by the Commissioner for the payment of any such additional police-officers shall be accounted for by him.

16. A police-officer may arrest without a warrant—

Apprehension and punishment of reputed thieves, &c.

any person found, between sunset and sunrise, armed with any dangerous or offensive instrument whatsoever, with intent to commit any offence against the person or property of another;

any reputed thief found, between sunset and sunrise, on board any vessel or boat, or lying or loitering in any bázár, street, road, yard, thoroughfare or other place, who shall not give a satisfactory account of himself;

any person found, between sunset and sunrise, having his face covered or otherwise disguised, with intent to commit any such offences as aforesaid;

any person found, between sunset and sunrise, in any dwelling-house or other building whatsoever, without being able satisfactorily to account for his presence therein; and

any person having in his possession, without lawful excuse (the proof of which excuse shall be on such person), any implement of house-breaking;

and such person shall be liable to imprisonment, with or without hard labour, for a term not exceeding three months.

Brothels.

17. On proof to the satisfaction of the Commissioner of Police or of

a Magistrate that a house is used as a common brothel, or lodging-house for prostitutes or disorderly persons of any description, such Commissioner or Magistrate may summon the owner or tenant of the house to answer the complaint, and, on being satisfied that the house is so used, and is a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it, and, if he shall fail to comply with such order within five days, may impose upon him a fine to the extent of twenty-five rupees for every day thereafter that the house shall be so used.

Penalty for keeping hotel, &c., without license.

18. Whoever has or keeps any hotel, tavern, punch-house, ale-house, arrack or toddy shop, or place for the sale or consumption of gánja, chandu or other preparation of opium, hemp or other intoxicating drug, plant or substance, or has or keeps any coffee-house, boarding-house, eating-house, lodging-house or other place of public resort and entertainment, wherein provisions, liquors or refreshments are sold or consumed (whether the same be kept or retailed therein or procured elsewhere) without a license to be obtained in the manner hereinafter mentioned, shall be liable to a fine not exceeding fifty rupees for every day that the said house or place of entertainment is kept open, or the sale of provisions, liquors or refreshments is continued, without the necessary license:

Provided that nothing in this Act shall apply to the sale, in reasonable quantities, of any drug, plant or substance in any chemist's or druggist's shop for medical purposes only.

Excise-license not to be granted without certificate of Commissioner of Police.

19. No license shall be granted under the provisions of the Bengal Excise Act, 1878,[a] unless the person applying for such license shall produce a certificate from the Commissioner of Police, stating that a license may be granted to him for the sale of spirituous liquors or intoxicating drugs, as the case may be, without risk or detriment to the preservation of peace and good order, and containing a full statement of such conditions as may have been imposed and shall have remained in force, under the provisions hereinafter contained, at the date when such license shall be granted. Ben. VII of 1878.

No license so granted shall be renewable without a fresh certificate as aforesaid, previously obtained from the Commissioner of Police, subject to the order and control of the said Lieutenant-Governor.

Duration and conditions of license.

20. It shall be competent to the Commissioner of Police, subject to the direction and control of the said Lieutenant-Governor, to limit, in such certificate as aforesaid, the period for which the license may be granted, and also to fix such conditions as he may deem necessary for securing the good behaviour

[a] See Ben. Act VII of 1878, s. 3, *infra*.

of the keepers of the houses and places of entertainment as aforesaid, and for the prevention of drunkenness and disorder among the persons frequenting the same, and from time to time to vary such conditions, subject to such direction and control as aforesaid; and no license granted under the said Bengal Excise Act, 1878,[a] shall be valid unless it shall contain such conditions as shall have been imposed and shall remain in force for the time being under this section.

Ben. VII of 1878.

Penalty for keeping up sign-board or notice after expiry of license.

21. Whenever any license granted as aforesaid shall have ceased to have effect, it shall be lawful for the Commissioner of Police to order the person to whom such license shall have been granted to remove or cause to be removed any sign-board or other notice which such person might have been theretofore bound, under the terms of his said license, to keep affixed, on or near the house or place of public resort or entertainment for which such license had been granted; and any person who shall fail to obey any such order forthwith shall be liable, on conviction, to a fine of ten rupees for every day thereafter during which he shall so fail.

Commissioner may grant licenses for places for which no licenses are required under Ben. Act VII of 1878.

22. The Commissioner of Police may, at his discretion, from time to time, grant licenses to the keepers of such houses or places of public resort and entertainment as aforesaid for which no such license as is specified in the said Bengal Excise Act, 1878,[a] is required, upon such conditions, to be inserted in every such license, as he, with the sanction of the said Lieutenant-Governor, from time to time shall order, for securing the good behaviour of the keepers of the said houses or places of public resort or entertainment and the prevention of drunkenness and disorder among the persons frequenting or using the same; and the said licenses may be granted by the said Commissioner for any term not exceeding one year.

Ben. VII of 1878.

Penalty for breach of condition of license.

23. Any person committing a breach of any of the conditions of a license granted either under section 19 or section 22 of this Act shall, on conviction before a Magistrate, be punishable by a fine not exceeding one hundred rupees, and such fine shall be recovered from the person licensed, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop or place of sale.

Any person so convicted shall also be liable to the forfeiture of his license, at the discretion of the Commissioner of Police, subject to the direction and control of the said Lieutenant-Governor.

Fee for certificate.

24. For every certificate or license granted by the Commissioner of Police under this Act there shall be levied a fee of two rupees.

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[a] See Ben. Act VII of 1878, s. 3, *infra*.

Penalty for owning or keeping, or having charge of, common gaming-house, &c.

25.[a] Whoever, being the owner or occupier, or having the use of, any house, room or place, shall keep or use the same as a common gaming-house; and whoever, being the owner or occupier of any house or room, shall knowingly and wilfully permit the same to be kept or used by any other person as a common gaming-house; and whoever shall have the care or management of, or in any manner assist in conducting, the business of any house, room or place so kept or used; and whoever shall advance or furnish money for the purpose of gaming with persons frequenting such house, room or place, shall be liable to a fine not exceeding two hundred rupees, or to imprisonment of either description for any term not exceeding three months.

Penalty for being found playing in common gaming-house.

26.[a] Whoever shall be found in any such house, room or place playing or gaming with cards, dice, counters, money or other instruments of gaming, or shall be found there present for the purpose of gaming whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description for any term not exceeding one month; and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Power to authorize entry of common gaming-house for search and seizure.

27.[a] If the Commissioner of Police or Magistrate, upon information on oath, and after such inquiry as he may think necessary, shall have reason to believe that any house, room or place is used as a common gaming-house, he may, by his warrant, give authority to any superior officer of police to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room or other place; and to take into custody all persons whom he finds therein, whether or not then actually gaming; and to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein; and to search all parts of the house, room or place which he shall have so entered, when he shall have reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he so takes into custody; and to seize and take possession of all instruments of gaming found upon such search.

Evidence of house being common gaming-house.

28.[a] When under the provisions of the last preceding section any cards, dice, gaming-table or cloth, board or other instruments of gaming shall be found in any house, room or place, or about the person of any of those who are found therein, it shall be evidence, until the contrary shall be made to

[a] Ss. 25—28 will be repealed when Ben. Act II of 1867 is extended to the suburbs of Calcutta —see s. 17 of that Act, *infra*, p. 105.

appear, that such house, room or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming although no play was actually seen by the police-officer or any of his assistants.

On conviction for keeping common gaming-house, instruments of gaming to be destroyed, &c.

29.[a] On conviction of any person for keeping any such common gaming-house, or being present therein for the purpose of gaming, all the instruments of gaming found therein shall be destroyed by order of the Magistrate, who may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof, with all moneys seized therein, to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Proof of playing for stakes unnecessary.

It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake.

Witnesses indemnified.

30.[a] Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, and who shall thereupon receive from the said Magistrate a certificate in writing to that effect, shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Portion of fine may be paid to informer.

31. The Magistrate may direct any portion, not exceeding one fourth, of any fine which shall be levied under sections 25 and 26 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under section 29, to be paid to an informer.

32.—[*Gambling in the streets.*] *Rep. by Ben. Act II of 1867, s. 17.*

Pawnbrokers and money-changers to report stolen property under penalty for neglect.

33. If any property answering the description set forth in any information which shall be given by any police-officer to any pawnbroker, or dealer in second-hand property or money-changer, regarding property stolen or fraudulently obtained, shall then be, or thereafter come, into the possession of, or be offered in pawn, or for sale or change, to such pawnbroker, dealer or money-changer, he shall, without unnecessary delay, give information to that effect at the nearest police-office, and shall also state the name and address given by the party by whom the same was offered, or from whom the same was received:

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[a] Ss. 29 and 30 will be repealed when Ben. Act II of 1867 is extended to the suburbs of Calcutta—see s. 17 of that Act, *infra*, p. 105.

Provided always that, in the case of wearing-apparel or other articles which it may be difficult for such pawnbroker or dealer to trace out and identify, no fine shall be exigible in respect of not reporting such articles, unless it shall appear to the Magistrate that such articles had been knowingly concealed by such pawnbroker or dealer.

Manufacture or possession of gunpowder.

34. Whoever shall manufacture gunpowder or, without a license from the Commissioner of Police, shall have in his possession, in any house, shop, warehouse or other building, at any one time, a greater quantity of gunpowder than ten pounds, shall be liable to a fine not exceeding five hundred rupees, and also to forfeit such gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

Licenses by Commissioner for sale and deposit of gunpowder, &c.

35. The Commissioner of Police may grant to any person a license for the sale or keeping in deposit of any quantity of gunpowder not exceeding fifty pounds, on such conditions and for such term, not exceeding one year, as shall be specified in the license; and any person who shall be guilty of a breach of any of such conditions shall, on conviction before a Magistrate, be liable to a fine not exceeding two hundred rupees, and to forfeit all gunpowder so kept in deposit contrary thereto, and the vessels containing it, and also, in the discretion of the Magistrate or of the Commissioner, to forfeit his license.

Licenses for conveying and removing gunpowder.

36. The Commissioner of Police may grant to any person a license for the transit and carrying of gunpowder from one place to another, in such manner and in such quantity as he may deem advisable: and any person, not being duly licensed in that behalf, who shall carry or convey a greater quantity of gunpowder than one pound from one place to another, shall be liable to a fine not exceeding fifty rupees.

Commissioner may issue warrant to search for gunpowder, &c.

37. The Commissioner of Police, on credible information laid before him on oath, may issue his warrant authorizing a police-officer to search in the daytime any house, shop, magazine or other building or place in which he shall have reasonable ground to suspect that any gunpowder is manufactured, sold or kept, or any boat, carriage, cart or other vehicle in which any gunpowder may be suspected to be carried, or any person suspected of carrying the same, contrary to the provisions of this Act; and all gunpowder found on such search shall, together with the vessels or receptacles in which it may be stored, be immediately seized and kept, pending the judgment of a Magistrate.

Act not to apply to Government gunpowder, &c.

38. None of the four last preceding sections shall extend to any Government magazine or store, or building for the making or deposit of gunpowder under the authority or for the use of the Government, or to any gunpowder belonging to Government.

Commissioner

39. The Commissioner of Police from time to time, as occasion may

require, may, subject to the orders of the said Lieutenant-Governor, make rules for the conduct of all assemblies and processions in the public roads, streets, thoroughfares within the limits aforesaid, prescribing the routes by which, and the times at which, such processions may pass, and for keeping order in the public roads, streets, thoroughfares, ghâts and landing-places, and all other places of public resort, and preventing obstructions thereof, on the occasion of such assemblies and processions, and in the neighbourhood of places of worship during the time of public worship; and in any case when the roads, streets, thoroughfares, ghâts or landing-places may be thronged, or may be liable to be obstructed; and may give licenses for the use of music in the streets on the occasion of Native festivals and ceremonies.

may make rules for conduct of assemblies and processions.

Every person opposing or not obeying the orders so issued by the Commissioner of Police, or violating the conditions of such license, shall be liable to a fine not exceeding one hundred rupees.

40. Whoever, within such limits as shall be from time to time defined by the Commissioner of Police, with the sanction of the said Lieutenant-Governor, in any public street, road, thoroughfare or place of public resort, shall commit any of the following offences, shall be liable to a fine not exceeding fifty rupees:—

Penalty for committing in public streets offence of—

(1) whoever shall drive, ride or lead any elephant or camel without permission from the Commissioner of Police:

driving, &c., elephant or camel:

(2) whoever shall drive any vehicle of any description, at any time between three-quarters of an hour after sunset, and one hour before sunrise, without a sufficient light, except when, in the opinion of the Magistrate, there may be sufficient moonlight to render such light unnecessary:

driving vehicle without sufficient light:

(3) whoever, without reasonable cause, shall drive a carriage, cart or other vehicle otherwise than on the left or near side of the road:

driving otherwise than on left side of road:

(4) whoever shall expose for show, hire or sale any horse or other animal, or any carriage; or shall clean or dress any horse or other animal; or shall clean any carriage or other conveyance; or shall make or repair any part of any cart or carriage, except in cases of accident where repair on the spot is necessary; or shall train or break any horse, except in such place and at such times as may be allowed by the Commissioner:

exposing for show horses, cleaning or repairing conveyances, or training horses, in places not allowed by Commissioner:

(5) whoever, by negligence or ill-usage in driving cattle, shall cause any mischief to be done by such cattle; or shall anywise misbehave himself in the driving, management or care of such cattle, so as to cause mischief or obstruction:

negligence in driving cattle:

leaving cart, &c., without control:

(6) whoever, being in charge of a cart, carriage or horse, shall leave it at such a distance as not to have the same under due control:

obstructing road or thoroughfare by carriage, &c.:

(7) whoever shall cause any cart or truck, with or without horses or cattle, to remain or stand longer than may be necessary for loading or unloading, except at places lawfully appointed for the purpose; or shall leave any cart carriage or truck, or fasten any horse or other animal, so as to cause any obstruction in any thoroughfare:

obstructing foot-ways:

(8) whoever shall lead or ride any horse or other animal, or draw or drive any cart, carriage or truck upon any foot-way, or shall fasten any horse or animal so that it can stand across or upon any foot-way:

beating drums, tom-toms, &c.:

(9) whoever shall beat a drum or tom-tom, or blow a horn or trumpet, or beat or sound any brass or other metal instrument or utensil, except at such times and places as shall be from time to time allowed by the Commissioner of Police:

lighting fires and discharging guns, fire-works, &c.:

(10) whoever shall set fire to or burn any straw or other matter, or light any bonfire, or wantonly discharge any fire-arm or air-gun, or let off or throw any fire-work, or send up any fire-balloon, except at such times and places as shall from time to time be allowed by the Commissioner of Police:

driving cart with insufficiently greased wheels:

(11) whoever, by driving a hackery or cart with insufficiently greased wheels, shall create a noise which is reasonably calculated to cause annoyance to persons frequenting or residing near the thoroughfare in which such hackery or cart is driven:

illuminations:

(12) whoever, without the consent of the Commissioner of Police, shall put up any post or other thing on the side of any public street, for the purpose of affixing thereon lamps to illuminate the street:

affixing bills or otherwise defacing houses, &c:

(13) whoever, without the consent of the owner or occupier, shall affix any bill or notice, or any paper, against or upon any building, wall or fence, or shall write upon, deface or mark any such building, wall or fence with chalk or paint or in any way whatsoever:

bathing, &c., in public street or aqueduct:

(14) whoever shall bathe or wash himself in any public street, or in, upon or by the side of, any public tank, reservoir or aqueduct, not being a place set apart for such purpose:

obstructing persons at bathing places:

(15) whoever shall obstruct or incommode a person bathing at any place set apart as a bathing place, by wilful intrusion, or by using such place as a landing-place, or by anchoring or otherwise fastening or keeping boats, or by washing horses, cattle or dogs, at or near such place, or in any other way:

(16)—[*Cruelty to Animals.*] *Rep by Ben. Act 1 of 1869, s. 8.*

beggars:

(17) whoever, in any public road, street, thoroughfare or place shall beg or apply for alms, or shall expose or exhibit any sores, wounds, bodily ailment or

deformity, with the object of exciting charity, or of obtaining alms; or shall seek for or obtain alms by means of any false statement or pretences:

(18) whoever wilfully and indecently exposes his person, or commits nuisance by easing himself. *exposing person, &c.*

41.[a] Whoever is found drunk and is incapable of taking care of himself, or is guilty of any riotous or indecent behaviour, in any public street or thoroughfare, or in any place of public amusement or resort, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for a term not exceeding eight days. *Penalty for drunkenness, or riotous or indecent behaviour, in public.*

42. It shall be lawful for the Commissioner of Police, by order in writing to be affixed at the principal police-stations, and also to be published in some public newspaper, to appoint, from time to time, certain periods within which any dogs found straying in the streets, or beyond the enclosures of the houses of the owners of such dogs, may be destroyed. *Stray dogs.*

43. Any police-officer may arrest without a warrant any person committing in his view any offence against this Act, if the name and address of such person be unknown to such police-officer and cannot be ascertained by him. *Police-officer may arrest without warrant on view of offence.*

44. Whoever commits an offence on or with respect to the person or property of another, or, in committing an offence under this Act, injures or damages the person or property of another, may, if his name and address be unknown, be apprehended by the person injured, or by any person who may be using the property to which the injury may be done, or by the servant of either of such persons or by any person authorized by or acting in aid of him, and may be detained until he give his name and address, and satisfy such person that the name and address so given are correct, or until he can be delivered into the custody of a police-officer. *Arrest of person committing offence with respect to person or property of another.*

45. Every person taken into custody without a warrant by a police-officer under this Act shall be taken to the nearest police-station-house in order that such person may be detained until he can be brought before the Magistrate, or until he shall enter into recognizances, with or without sureties, for his appearance before the Magistrate. *Persons taken into custody by police-officer without warrant may be detained in police-office until brought before Magistrate or bailed.*

Any person so detained and not entering into recognizances, with or without such sureties, shall be carried before the Magistrate within twenty-four hours from the time of his being taken into custody.

46. Whenever any person shall be brought to a station-house charged with *Power to take*

[a] This section has been substituted for the original s. 41 by Ben. Act II of 1886, s. 2—see Ben. Act II of 1886, s. 2, *infra*.

recognizance at station-house.

any offence against this Act, it shall be lawful for the officer in charge of such station-house, or any superior officer of police, if he shall deem it prudent to enlarge such person on his own recognizance, with or without sureties, conditioned as hereinafter mentioned.

Condition of recognizance.

47. Every recognizance so taken shall be without fee or reward, and shall be conditioned for the appearance of the person thereby bound before a Magistrate at his next sitting, and all the persons executing the said recognizance shall acknowledge themselves jointly and severally bound in the sum—not exceeding one thousand rupees—thereby acknowledged, and the time and place of appearance shall be specified in the said recognizance, or in the condition thereof; and the officer taking the recognizance shall enter in a book, to be kept for the purpose, the name, residence and occupation of the party and his surety or sureties (if any) entering into such recognizance, together with the condition thereof, and the sum thereby acknowledged, and shall return every such recognizance to the Magistrate present at the time and place when and where the party is bound to appear.

Recovery and appropriation of fines.

48. All fines imposed under the authority of this Act shall be recoverable in the manner prescribed by sections 386, 387 and 389 of the Code of Criminal Procedure, 1882,[a] and the amount so levied shall be appropriated to any fund applicable to police-purposes: X of 1882.

Imprisonment in lieu of fine.

Provided that it shall be lawful for the Magistrate, when it shall appear to him that the fine cannot be realized by recourse to the provisions above-mentioned, to sentence the offender to imprisonment in lieu of any fine to which such offender is liable under this Act, and the term of such imprisonment shall be fixed in accordance with the scale laid down in section 67 of the Indian Penal Code.[b] XLV of 1860

49.—[*Powers of Joint and other Magistrates.*] *Rep. by Ben. Act I of 1874.*

Powers of Deputy Commissioner.

50. The Deputy Commissioner of Police for the town of Calcutta may, under the orders of the Commissioner, exercise all or any of the powers vested in the latter by the provisions of this Act.

Interpretation.

51. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say):—

"Property." the word "property" shall include any chattel, money or valuable security:

"Person." the word "person" shall include a corporation:

"Month." the word "month" shall mean calendar month:

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[a] See Act X of 1872, s. 2 and Sch. V; also Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

[b] See General Acts, 1834—66, 2nd Ed., p. 251.

the word "oath" shall include any affirmation or declaration lawfully substituted for an oath: "Oath."

the words "common gaming-house" shall be taken to mean any house, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning or keeping such house, room or place, whether by way of charge or the use of the instruments of gaming, or of the house, room or place, or otherwise howsoever: "Common gaming-house."

the word "cattle" shall, besides horned cattle, include horses, asses, mules, sheep, goats and swine: "Cattle."

words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number: Number.

words importing the masculine gender shall include females. Gender.

52. Act XXI of 1857[a] (*to make better provision for the order and good government of the suburbs of Calcutta and of the station of Howrah*) is hereby repealed, so far as it applies to such portion of the suburbs of the town of Calcutta as shall for the time being be subject to the operation of this Act. Act XXI of 1857 repealed in suburbs.

FORM OF CERTIFICATE.—(*Referred to in section 8.*)

A. B. has been appointed a (superintendent, inspector, jamadár, daroga *or* peon, *as the case may be*) in the suburban police-force, and is vested with the powers, functions and privileges of a police-officer.

ACT No. III OF 1866.[b]

Received the Lieutenant-Governor's assent on the 13th March, 1866, and the Governor General's assent on the 23rd idem.

An Act to provide for the attendance and examination of witnesses before the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations.

WHEREAS it is expedient to make provision for the attendance of witnesses before the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations and for the examination of such witnesses; It is enacted as follows:— Preamble.

1. It shall be lawful for the Lieutenant-Governor of Bengal, by a sum- Lieutenant-

[a] See Vol. I, p. 323.

[b] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2; also in the Districts of Hazáribágh, Loharlugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan, under s. 3 of the Scheduled Districts Act, 1874—see Vol. I, p. 676.

Governor may, by summons, require person to appear before Council.

mons under the hand of the Secretary or Assistant Secretary to the Government of Bengal in the Legislative Department for the time being, to require the attendance before the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations, at a time and place to be mentioned in such summons, of any person, residing within any of the provinces or places subject to the government of the Lieutenant-Governor of Bengal, whose evidence shall, in the judgment of such Council, be material with reference to any project of law, Bill or Act then under consideration by such Council; and by such summons to require the person so summoned to produce before such Council all such books, deeds and writings as to the said Council shall appear necessary for obtaining information as to the matter so under consideration: and every person so summoned shall, according to the exigency of the summons, attend before the said Council, and produce such books, deeds and writings as shall be in his power, custody or control.

Administration of oath or affirmation.

2. It shall be lawful for the said Secretary or Assistant Secretary to the Government of Bengal in the Legislative Department for the time being, or any other officer appointed in that behalf by the Lieutenant-Governor, to administer an oath or affirmation, in such form as to the said Council shall seem fit, to any person appearing in obedience to such summons as aforesaid.

But nothing herein contained shall prevent such person from giving evidence without oath or affirmation, if the said Council shall think it expedient that the evidence should be so given.

Powers against persons failing to appear, &c.

3. If any person upon whom any such summons shall be served by the delivery thereof to him, or leaving thereof at his usual or last-known place of abode, shall, without reasonable cause (to be allowed by the said Lieutenant-Governor of Bengal), fail to appear before the said Council at the time and place mentioned in the summons, or shall refuse to make oath or affirmation as required, or shall not make answer to such questions as shall be put to him touching the matter under consideration as aforesaid, or shall refuse or fail, without reasonable cause (to be allowed by the said Lieutenant-Governor of Bengal), to produce to the said Council any book, deed or writing in his possession, power or control as by the said Council he shall be required to produce (whether mentioned in the summons or not), the Lieutenant-Governor of Bengal shall, on the report of the said Council that such failure or refusal has taken place, have the power, by warrant under his hand, to direct that such person be apprehended and committed to close custody in a place and for a time specified in the warrant, unless he shall in the meantime comply, to the satisfaction of the said Council, with such requisitions as have been made on him touching his examination.

The warrant may be directed to any officer appointed in that behalf by the Lieutenant-Governor.

4. Whenever a summons is issued for the attendance of a witness under this Act, the Lieutenant-Governor of Bengal may, if he thinks fit, order such witness to receive from the Collector or Commissioner of the district or division in which the witness resides such expenses as he would have been entitled to receive if summoned as a witness before the principal Court of original jurisdiction within the limits of which he shall be residing. Expenses of witnesses.

5. The provisions of sections 21 and 32 of Act II of 1855[a] (*for the further improvement of the Law of Evidence*) shall extend to witnesses examined before the said Council of the Lieutenant-Governor of Bengal. Provisions of sections 21 and 32 of Act II of 1855 extended.

6. Throughout this Act, unless the contrary appears from the context, words importing the singular shall include the plural, and words importing the plural shall include the singular number: Interpretation. Number.

words importing the masculine gender shall include the feminine: Gender.

the word "Council" shall include any committee of the whole Council, and any select committee of the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations. "Council."

ACT No. IV of 1866.

Received the Lieutenant-Governor's assent on the 13th March, 1866, and the Governor General's assent on the 23rd idem.

An Act to amend and consolidate the provisions of Act XIII of 1856 (for regulating the Police of the towns of Calcutta, Madras and Bombay) and of Act XLVIII of 1860 (to amend Act XIII of 1856).

Whereas it is expedient to amend and consolidate the provisions of Act XIII of 1856 and of Act XLVIII of 1860, so far as the said Acts are applicable to the town of Calcutta; It is enacted as follows:— Preamble.

1. This Act may be cited as the Calcutta Police Act, 1866. Short title.

2.—[*Repeal of Acts XIII of 1856 and XLVIII of 1860 in Calcutta.*] *Rep. by Act XII of 1873.*

3. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say):— Interpretation.

the words "town of Calcutta" shall include all places within the local "Town of Calcutta."

[a] Act II of 1855 has been repealed by Act I of 1872—see General Acts, 1867—76, 2nd Ed., p. 249.

limits of the jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal:

"Magistrate." the word "Magistrate" shall mean any Magistrate of Police acting for the said town:

"Property." the word "property" shall include any chattel, money or valuable security:

"Month." the word "month" shall mean calendar month:

"Oath." the word "oath" shall include any affirmation or declaration lawfully substituted for an oath:

"Common gaming-house." the words "common gaming-house" shall be taken to mean any house, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning or keeping such house, room or place, whether by way of charge for the use of the instruments of gaming or of the house, room or place, or otherwise howsoever:

"Cattle." the word "cattle" shall, besides horned cattle, include horses, asses, mules, sheep, goats and swine:

Number. words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number:

Gender. words importing the masculine gender shall include females.

Appointment and removal of Commissioner of Police. 4. The administration of the police in the town of Calcutta shall be vested in an officer to be styled the Commissioner of Police, for such town, who shall from time to time be appointed by the Lieutenant-Governor of Bengal and may be removed by the same authority, and who shall receive such salary as the Governor General of India in Council shall allow.

Appointment of deputies to Commissioner. 5. The said Lieutenant-Governor may from time to time appoint one or more deputies to the Commissioner of Police, who shall be competent to perform any of the duties assigned to that officer under his orders.

The Deputy Commissioner may be removed at any time by order of the said Lieutenant-Governor.

Commissioner shall not ordinarily be a Magistrate. 6. The Commissioner of Police shall not ordinarily be a Magistrate of Police under this Act, but, with the sanction of the Governor General of India in Council, may be appointed to that office, when the said Lieutenant-Governor for special reasons may deem it expedient.

Commissioner to be Justice of the Peace, but to act only in certain cases. 7. The Commissioner of Police shall be appointed a Justice of the Peace, but, unless he is vested with the jurisdiction of a Magistrate of Police, he shall act as a Justice only so far as may be necessary for the preservation of the peace, the prevention of crimes, and the detection, apprehension and detention of offenders in order to their being brought before a Magistrate of Police, and so far as may be necessary for the performance of the duties assigned to the Commissioner by this Act.

The deputies to the Commissioner of Police may be appointed Justices of the Peace, and, if so appointed, shall act in that capacity subject to the above restriction.

Constitution of police-force.

8. For the said town of Calcutta there shall be a police-force, which shall consist of such number of officers and men, and shall be otherwise constituted in such manner, as shall be, from time to time, ordered by the said Lieutenant-Governor, with the sanction of the Governor General of India in Council.

Police to be under control of Commissioner. Rules for government of police to be made by Commissioner and approved by Government.

9. The police-force shall be under the exclusive direction and control of the Commissioner of Police, who may from time to time, subject to the approbation of the said Lieutenant-Governor, frame such orders and regulations as he shall deem expedient, relative to the general government of the force, the places of residence, the classification, rank, distribution and particular service of the several members thereof; their inspection; the description of arms, accoutrements and other necessaries to be furnished to them; and all such other orders and regulations relative to the said police-force as the said Commissioner shall from time to time deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties.

Appointment, &c., of police to rest with Commissioner.

10. The appointment of the members of the police-force shall rest with the Commissioner of Police, and he may at any time suspend or dismiss any member of the force whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Power to fine members of police.

11. For any lesser breach of discipline, or other misconduct not requiring the suspension or dismissal of the offender, a member of the police-force may be fined by the Commissioner in any sum not exceeding one half of his monthly pay.

Additional penalties for members for neglect of duty, &c.

12. For neglect or violation of duty in his office, and for any breach of the orders and regulations framed as aforesaid, every member of the police, besides being suspended or dismissed from his employment at the discretion of the Commissioner, shall be liable, on conviction before a Magistrate, to a fine not exceeding one hundred rupees (which may be deducted from any salary then due to such offender), or to imprisonment, with or without hard labour, for any term not exceeding three months.

Members to receive certificates vesting them with powers of constable.

13. Every member of the police-force shall receive on his enrolment a certificate (A), under the signature of the Commissioner of Police, by virtue of which he shall be vested with the powers, functions and privileges of a constable.

Such certificate shall cease to have effect whenever the person named in

it is suspended or dismissed, or otherwise removed from employment in the force.

Members not to resign without leave or notice.

14. No member of the police-force, to be enrolled under this Act, shall be at liberty to resign his office, or to withdraw himself from the duties thereof, unless expressly allowed so to do in writing by the Commissioner, or unless he shall have given to the Commissioner six months' notice of his intention, if a member of the mounted branch of the said force, and two months' notice if a member of any other branch; and every member of the said force, who shall so resign or withdraw himself without such leave or notice, shall be liable, on the order of the Commissioner, to forfeit all arrears of pay then due to him; and, on the sentence of a Magistrate, if such Magistrate shall think fit, to pay a fine not exceeding fifty rupees, or to be imprisoned, with or without hard labour, for any term not exceeding two months.

Penalty for dismissed members not delivering up clothing, accoutrements, &c.

15. Every member of the police-force who shall be dismissed from, or shall cease to hold and exercise, his office, and who shall not forthwith deliver up his certificate, and all the clothing, accoutrements and other necessaries which may have been supplied to him for the execution of his duty, to the Commissioner, or to such person, and at such time and place, as shall be directed by the said Commissioner, shall be liable, on summary conviction before a Magistrate, to imprisonment, with or without hard labour, for any term not exceeding one month.

And it shall be lawful for the Commissioner, or for any Magistrate, to issue his warrant to search for and seize all the clothing, accoutrements, appointments and other necessaries which shall not be so delivered over, wherever the same may be found.

Police Superannuation Fund.

16. There shall be deducted from the pay of every member of the police-force, of a class not entitled to the benefit of the Uncovenanted Service Pension-rules, a sum, after such rate as the said Lieutenant-Governor shall direct, not exceeding one anna in the rupee, which sum so deducted shall, from time to time, be invested in such manner and in such securities as the said Lieutenant-Governor may in writing direct; and the said sum so invested, together with the interest and dividends thereof, shall form a fund, to be called "The Police Superannuation Fund," and shall be applied, from time to time, to payment of such superannuation or retiring-allowances or gratuities as may be ordered by the said Lieutenant-Governor at any time to any of the aforesaid members of the police-force:

Provided that any police-officer may be dismissed or removed without a superannuation-allowance, and that no police-officer shall be entitled as of right, to any allowance from the said fund, or shall retain any right to a

refund of any deduction made from his pay while he shall have been a police-officer.

Disposal of proceeds of certain fines, &c.

17. All sums accruing from stoppages from members of the police-force during absence from sickness or other cause and fines imposed on members thereof for misconduct, and from fines imposed by Magistrates upon drunken persons or for assaults upon police-officers, and all moneys arising from the sale of worn or cast-off clothing or other articles supplied for the use of the police, shall be credited to any fund applicable to police-purposes.

Power to appoint special constables.

18. The Commissioner of Police may, of his own authority, appoint special constables to assist the police-force on any temporary emergency.

Powers of special constables.

19. Every special constable so appointed shall have the same power, privileges and protection, and shall be liable to perform the same duties, and shall be amenable to the same penalties, and be subordinate to the same authorities, as the ordinary officers of police.

Penalty for special constable neglecting or refusing to serve, &c.

20. If any person, being appointed a special constable as aforesaid, shall, without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable, upon conviction before a Magistrate, to a fine not exceeding fifty rupees for every such neglect, refusal or disobedience.

Appointment of additional constables on application of private individuals.

21. The Commissioner of Police may also, if he shall think fit, on the application of any person shewing the necessity of it, appoint any additional number of constables to keep the peace at any place within his jurisdiction, at the charge of the person applying, but subject to the orders of the said Commissioner, and for such time as he shall think fit; and every such constable shall receive a certificate, by virtue of which he shall be vested with all the powers, privileges and duties of the constable belonging to the police-force:

Proviso.

Provided that the person upon whose application such appointment shall have been made may, upon giving one month's notice in writing to the Commissioner of Police, require that the constables so appointed at his expense shall be discontinued, and thereupon the said Commissioner shall discontinue such additional constables; and all moneys received by the Commissioner for the payment of any such additional constables shall be accounted for by him.

22, 23, 24.—[*Police districts; appointment of Police Magistrates; attendance of police-officers at Police Courts; service of criminal process by Police-officers.*] *Rep. by Act IV of 1877.*

Execution warrants.

25. When any warrant shall be directed or delivered to any such officer, unless the authority issuing it shall order that it be executed without delay, such police-officer shall deliver the same to the superior officer in charge of

the division to which he belongs, who shall appoint, by endorsement thereon, one or more police-officers to execute the same; and every police-officer whose name shall be so endorsed thereon shall have the same powers, privileges and protection, as if the same had been originally directed to him by name.

26, 27, 28.—[*Offences summarily triable by Magistrates; summary jurisdiction of two Magistrates; restitution of stolen property.*] *Rep. by Act IV of 1877.*

Penalty for wilful trespass on property.

29. Whoever, without satisfactory excuse, wilfully trespasses in or on any dwelling-house or premises, or on any land or ground attached thereto, or on any boat or vessel, not thereby causing any actual damage, or on any ground belonging to Government or appropriated to public purposes, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding twenty rupees.

30, 31.—[*Order of maintenance for wife or child; restoration of woman or child detained for unlawful purpose.*] *Rep. by Act IV of 1877.*

Apprehension and punishment of reputed thieves, &c.

32. Any person found between sunset and sunrise armed with any dangerous or offensive instrument whatsoever, with intent to commit any criminal act;

any reputed thief found between sunset and sunrise on board any vessel or boat, or lying or loitering in any bázár, street, road, yard, thoroughfare or other place, who shall not give a satisfactory account of himself;

any person found between sunset and sunrise having his face covered or otherwise disguised, with intent to commit any offence;

any person found between sunset and sunrise in any dwelling-house or other building whatsoever, without being able satisfactorily to account for his presence therein; and

any person having in his possession, without lawful excuse (the proof of which excuse shall be on such person), any implement of house-breaking—

may be taken into custody by any police-officer without a warrant, and shall be liable, on summary conviction before a Magistrate, to imprisonment, with or without hard labour, for any term not exceeding three months.

Penalty for taking spirits into barracks or on board vessels of war.

33. Whoever, not being amenable to the Articles of War for Her Majesty's Army or Her Majesty's Navy, or for the Native officers or soldiers in Her Majesty's Indian Army, takes, or attempts to take, into Fort William at Calcutta, or into any military barracks, guard-rooms or encampments within the town of Calcutta, or on board or alongside of any vessel of war belonging to Her Majesty in the port of the said town, any spirits or spirituous or fermented liquors, or intoxicating drugs or preparations, without the license in writing of the commanding officer (unless such articles are intended for some person above the rank of non-commissioned officer) shall be liable, on summary conviction before a Magistrate, to a fine not exceeding one hundred

rupees, or imprisonment for any term not exceeding two months, with or without hard labour; and such liquors, drugs or preparations, and the vessels containing the same, shall be forfeited.

Penalty for taking spirits &c., into jail.

34. Whoever takes, or attempts to take, without due permission, or throws, or attempts to throw, into any jail or house of correction, or into any public hospital, any spirits or spirituous or fermented liquors, or intoxicating drugs or preparations, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for any term not exceeding two months.

Penalty for keeping hotel, &c., without license.

35. Whoever in the town of Calcutta has or keeps any hotel, tavern, punch-house, ale-house, arrack or toddy-shop, or place for the sale or consumption of gánja, chandu or other preparation of opium, hemp or other intoxicating drug, plant or substance, or has or keeps any coffee-house, boarding-house, eating-house, lodging-house or other place of public resort and entertainment, wherein provisions, liquors or refreshments are sold or consumed (whether the same be kept or retailed therein or procured elsewhere), without a license to be obtained in the manner hereinafter mentioned, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees for every day that the said house or place of entertainment is kept open, or the sale of provisions, liquors or refreshments is continued without the necessary license:

Provided that nothing in this Act shall apply to the sale in reasonable quantities of any drug, plant or substance in any chemist's or druggist's shop for medicinal purposes only.

Excise-license not to be granted without certificate of Commissioner.

Ben. VII of 1878.

36. No license shall be granted under the provisions of the Bengal Excise Act, 1878,[a] unless the person applying for such license shall produce a certificate from the Commissioner of Police stating that a license may be granted to him for the sale of spirituous liquors or intoxicating drugs, as the case may be, without risk or detriment to the preservation of peace and good order, and containing a full statement of such conditions as may have been imposed, and shall have remained in force under the provisions hereinafter contained at the date when such license shall be granted.

No license so granted shall be renewable without a fresh certificate as aforesaid previously obtained from the Commissioner of Police, subject to the order and control of the Lieutenant-Governor of Bengal.

Duration and conditions of license.

37. It shall be competent to the Commissioner of Police, subject to the direction and control of the said Lieutenant-Governor, to limit, in such certificate as aforesaid, the period for which the license may be granted, and also

[a] See Ben. Act VII of 1878, s. 3, *infra*.

to fix such conditions as he may deem necessary for securing the good behaviour of the keepers of the houses and places of entertainment as aforesaid, and for the prevention of drunkenness and disorder among the persons frequenting or using the same, and from time to time to vary such conditions subject to such direction and control as aforesaid; and no license granted under the said Bengal Excise Act, 1878,[a] shall be valid, unless it shall contain such conditions as shall have been imposed and shall remain in force for the time being under this section. Ben. VII of 1878.

Penalty for keeping up signboard or notice after expiry of license.

38. Whenever any license granted as aforesaid shall have ceased to have effect, it shall be lawful for the Commissioner of Police to order the person to whom such license shall have been granted to remove or cause to be removed any signboard or other notice which such person might have been theretofore bound, under the conditions of his said license, to affix on or near the house or place of public resort or entertainment for which such license had been granted; and any person who shall fail to obey any such order forthwith shall be liable, on summary conviction before a Magistrate, to a fine of ten rupees for every day thereafter during which he shall so fail.

Commissioner of Police may grant licenses for places for which no licenses are required under Ben. Act VII of 1878.

39. The Commissioner of Police may, at his discretion, from time to time, grant licenses to the keepers of such houses or places of public resort and entertainment as aforesaid for which no license as is specified in the said Bengal Excise Act, 1878,[a] is required, upon such conditions, to be inserted in every such license, as he with the sanction of the said Lieutenant-Governor from time to time shall order, for securing the good behaviour of the keepers of the said houses or places of public resort or entertainment, and the prevention of drunkenness and disorder among the persons frequenting or using the same; and the said licenses may be granted by the said Commissioner for any time not exceeding one year. Ben. VII of 1878.

Penalty for breach of conditions of license.

40.[b] Any person committing a breach of any of the conditions which in accordance with section 37 of this Act are included in a license granted under the said Bengal Excise Act, 1878,[a] or of any of the conditions subject to which a license is given under section 39 of this Act, shall, on summary conviction before a Magistrate, be liable to a fine not exceeding one hundred rupees; and such fine shall be recovered from the person licensed, notwithstanding that such breach may have been caused by the default or carelessness of the servant or other person in charge of the shop or place of sale. Ben. VII of 1878.

Any person so convicted shall also be liable to the forfeiture of his license,

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[a] See Ben. Act VII of 1878, s. 3, *infra*.

[b] This section has been substituted for the original section 40 by Ben. Act II of 1876, s. 12—see Ben. Act II of 1876, s. 12, *infra*.

at the discretion of the Commissioner of Police, subject to the direction and control of the said Lieutenant-Governor.

41. For every certificate or license granted by the Commissioner of Police under this Act there shall be levied a fee of two rupees. *Fee for certificate and license.*

42. Whoever, in any place within the said town, wilfully harbours or conceals any seaman or apprentice belonging to any vessel other than a vessel of the navy of the Queen, knowing, or having reason to believe, such seaman or apprentice to be a deserter, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding one hundred rupees. *Penalty for harbouring and concealing deserters from merchant-vessels.*

43. On proof to the satisfaction of the Commissioner of Police, or of a Magistrate, that a house is used as a common brothel, or lodging-house for prostitutes or disorderly persons of any description, such Commissioner or Magistrate may summon the owner or tenant of the house, and, on being satisfied that the house is so used, and is a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it; and, if he shall fail to comply with such order within five days, may impose upon him a fine to the extent of twenty-five rupees for every day thereafter that the house shall be so used. *Brothels.*

44. Whoever, being the owner, occupier, or having the use, of any house, room or place, opens, keeps or uses the same a sacomm on gam ing-house; and whoever, being the owner or occupier of any house or room, knowingly and wilfully permits the same to be opened, kept or used by any other person as a common gaming-house; and whoever has the care or management of, or in any manner assists in conducting, the business of any house, room or place so opened, kept or used; and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, room or place, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding five hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months. *Penalty for owning or keeping, o being employed in, gaming-house, &c.*

45. Whoever is found in any such house, room or place playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding one month; and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming. *Penalty for being found playing in gaming-house.*

46. If the Commissioner of Police or a Magistrate, upon information or *Commis-*

or Magistrate may grant warrants to police-officers to enter gaming-house for search and seizure.

oath, and after such inquiry as he may think necessary, has reason to believe that any house, room or place is used as a common gaming-house, he may, by his warrant, give authority to any inspector or superior officer of police to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room or other place, and to take into custody all persons whom he finds therein, whether or not then actually gaming, and to seize all instruments of gaming, and all moneys and securities for money and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein, and to search all parts of the house, room or place which he shall have so entered, when he has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he so takes into custody, and to seize and take possession of all instruments of gaming found upon such search.

Common gaming-house.

47. When, under the provisions of the last preceding section, any cards, dice, gaming-table or cloth, board or other instruments of gaming, are found in any house, room or place, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, room or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the police-officer or any of his assistants.

On conviction for keeping common gaming-house, instruments of gaming to be destroyed, &c.

48. On conviction of any person for keeping any such common gaming-house, or being present therein for the purpose of gaming, all the instruments of gaming found therein shall be destroyed by order of the Magistrate, who may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof, with all money seized therein, to be forfeited, or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Proof of playing for stakes unnecessary.

49. It shall not be necessary, in order to convict any person of keeping a common gaming-house or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake.

Witnesses indemnified.

50. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, and who shall thereupon receive from the said Magistrate a certi-

ficate in writing to that effect, shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Portion of fine may be paid to informer.

51. The Magistrate may direct any portion, not exceeding one fourth, of any fine which shall be levied under sections 44 and 45 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under section 48, to be paid to an informer.

52.—[*Gambling in the streets.*] *Rep. by Ben. Act II of 1867, s. 17.*

Pawnbrokers and money-changers to report stolen property under penalty for neglect.

53. If any property answering the description set forth in any information which shall be given by any police-officer to any pawnbroker or dealer in second-hand property, or money-changer, regarding property stolen or fraudulently obtained, shall then be or thereafter come into the possession of, or be offered in pawn, or for sale or change, to such pawnbroker, dealer or money-changer, he shall, without unnecessary delay, give information to that effect at the nearest police-station, and shall also state the name and address given by the party by whom the same was offered, or from whom the same was received, under a penalty, to be imposed by a Magistrate on summary conviction, not exceeding fifty rupees for each and every such neglect or offence:

Provided always that, in the case of wearing-apparel or other articles which it may be difficult for such pawnbroker or dealer to trace out and identify, no fine shall be exigible in respect of not reporting such articles, unless it shall appear to the Magistrate that such articles had been knowingly concealed by such pawnbroker or dealer.

Taking pledge from child under age of fourteen.

54. Whoever takes from any child, apparently under the age of fourteen years, any article whatsoever as a pawn, pledge or security for any sum of money lent or advanced to such child, or, without the knowledge and consent of the owner of the article, buys from any child any article whatsoever, shall be liable, on summary conviction before a Magistrate, to a penalty not exceeding one hundred rupees.

Standard weights and measures.

55.[a] The Commissioner of Police shall keep in his office standard weights and measures; and weights and measures shall be held to be false when they do not agree with such standards.

Powers of inspector, &c., to enter shops to seize false weights and measures.

56. Any inspector or superior officer of police may enter any shop or premises for the purpose of inspecting the weights and measures, and instruments for weighing, kept or used therein, and may seize any weight, measure or instrument for weighing which he may have reason to believe is false.

Manufacture

57. Whoever manufactures gunpowder, or, without a license from the

[a] As to duty of Commissioner of Police under s. 55 to keep certified measures of the standard yard, standard foot and standard inch under the Measures of Length Act, 1889, see Act II of 1889 s. 7

or possession of gunpowder.

Commissioner of Police, has in his possession, in any house, shop, warehouse or other building, at any one time, a greater quantity of gunpowder than ten pounds, shall be liable, on a summary conviction before a Magistrate, to a fine not exceeding five hundred rupees, and also to forfeit such gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

Licenses by Commissioner for sale and deposit of gunpowder, &c.

58. The Commissioner of Police may grant to any person a license for the sale or keeping in deposit of any quantity of gunpowder not exceeding fifty pounds, on such conditions, and for such term, not exceeding one year, as shall be specified in the license; and any person who shall be guilty of a breach of any of such conditions shall, on summary conviction before a Magistrate, be liable to a fine not exceeding two hundred rupees, and to forfeit all gunpowder so kept in deposit contrary thereto, and the vessels containing it, and also, in the discretion of the Magistrate, or of the Commissioner, to forfeit his license.

Licenses for conveying and removing gunpowder.

59. The Commissioner of Police may grant to any person a license for the transit and carrying of gunpowder from one place to another, in such manner and in such quantity as he may deem advisable; and any person, not being duly licensed in that behalf, who carries or conveys a greater quantity of gunpowder than one pound from one place to another, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees.

Commissioner may issue warrant to search for gunpowder, &c.

60. The Commissioner of Police, on credible information laid before him on oath, may issue his warrant authorizing a police-officer to search in the day-time any house, shop, magazine or other building or place in which he has reasonable ground to suspect that any gunpowder is manufactured, sold or kept, or any boat, carriage, cart or other vehicle in which any gunpowder may be suspected to be carried, or any person suspected of carrying the same, contrary to the provisions of this Act; and all gunpowder found on such search shall, together with the vessels or receptacles in which it may be stored, be immediately seized and kept, pending the judgment of a Magistrate.

Act not to apply to Government gunpowder, &c.

61. None of the four last preceding sections shall extend to any Government magazine or store, or building for the making or deposit of gunpowder under the authority or for the use of the Government, or to any gunpowder belonging to Her Majesty.

Regulation of public processions, &c., and of carriages and persons at places of public resort.

62. The Commissioner of Police, from time to time, as occasion may require, may, subject to the orders of the said Lieutenant-Governor, make rules for the conduct of all assemblies and processions in the public roads, streets or thoroughfares, prescribing the routes by which, and the times at which, such processions may pass; and for keeping order in the public roads, streets, thoroughfares, ghâts and landing-places, and all other places of public resort,

and preventing obstructions thereof on the occasion of such assemblies and processions, and in the neighbourhood of places of worship during the time of public worship; and in any case when the roads, streets or thoroughfares, ghâts or landing-places may be thronged, or may be liable to be obstructed; and may give licenses for the use of music in the streets on the occasion of Native festivals and ceremonies.

Licenses for use of music in streets.

Every person opposing or not obeying the orders so issued by the Commissioner of Police, or violating the conditions of such license, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding one hundred rupees.

63 to 65.—[*Passenger-boats to be registered; power to refuse or cancel registration; penalty for neglecting or delaying to report accident attended with loss of life*]. *Rep. by Ben Act IV of 1879.*

66. Whoever, within such limits as shall be from time to time defined by the Commissioner of Police with the sanction of the said Lieutenant-Governor, in any public street, road, thoroughfare or place of public resort, commits any of the following offences, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees:—

Penalty for committing in public streets the offence of—

(1) whoever drives, rides or leads any elephant or camel without permission from the Commissioner of Police:

driving, &c., elephant or camel:

(2) whoever drives any vehicle of any description, at any time between three quarters of an hour after sunset, and one hour before sunrise, without a sufficient light, except when, in the opinion of the Magistrate, there may be sufficient moonlight to render such light unnecessary:

driving vehicle without sufficient light:

(3) whoever, without reasonable cause, shall drive a carriage, cart or other vehicle otherwise than on the left or near side of the road:

driving on other than left side of road:

(4) whoever exposes for show, hire or sale, any horse or other animal, or any carriage, or cleans or dresses any horse or other animal, or cleans any carriage or other conveyance, or makes or repairs any part of any cart or carriage, except in cases of accident where repair on the spot is necessary, or trains or breaks any horse, except in such place and at such times as may be allowed by the Commissioner:

exposing for show or training horses, or cleaning conveyances, in places not allowed:

(5) whoever, by negligence or ill-usage in driving cattle, causes any mischief to be done by such cattle, or in any wise misbehaves himself in the driving, management or care of such cattle, so as to cause mischief or obstruction:

negligence in driving cattle:

(6) whoever, being in charge of a cart, carriage or horse, leaves it at such a distance as not to have the same under due control:

leaving cart, &c., without control.

obstructing road or thoroughfare by carriage, &c.:

(7) whoever causes any cart or truck, with or without horses or cattle, to remain or stand longer than may be necessary for loading or unloading, except at places lawfully appointed for the purpose; or leaves any cart, carriage or truck, or fastens any horse or other animal, so as to cause any obstruction in any thoroughfare:

obstructing foot-way:

(8) whoever leads or rides any horse or other animal, or draws or drives any cart, carriage or truck upon any foot-way, or fastens any horse or animal so that it can stand across or upon any foot-way:

beating drum, tom-tom, &c.:

(9) whoever beats a drum or tomtom, or blows a horn or trumpet, or beats or sounds any brass or other metal instrument or utensil, except at such times and places as shall be, from time to time, allowed by the Commissioner of Police:

driving cart with insufficiently greased wheels:

(10) whoever, by driving a hackery or cart with insufficiently greased wheels, shall create a noise which is reasonably calculated to cause annoyance to persons frequenting or residing near the thoroughfare in which such hackery or cart is driven:

lighting fires and discharging guns, fire-works, &c.:

(11) whoever sets fire to or burns any straw or other matter, or lights any bonfire, or wantonly discharges any fire-arm or air-gun, or lets off or throws any fire-work, or sends up any fire-balloon, in or near any public street, road or thoroughfare, except at such times and places as shall, from time to time, be allowed by the Commissioner of Police:

illuminations:

(12) whoever, without the consent of the Commissioner of Police, puts up any post or other thing on the side of any public street, for the purpose of affixing thereon lamps to illuminate the street:

affixing bills, or otherwise defacing houses, &c.:

(13) whoever, without the consent of the owner or occupier, affixes any bill or notice, or any paper, against or upon any building, wall or fence, or writes upon, defaces or marks any such building, wall or fence with chalk or paint, or in any way whatsoever:

bathing, &c., in public street or aqueduct:

(14) whoever bathes or washes himself in any public street, or in, upon or by the side of, any public tank, reservoir or aqueduct, not being a place set apart for such purpose:

obstructing persons at bathing-places.

(15) whoever obstructs or incommodes a person bathing at any place set apart as a bathing-place, by wilful intrusion, or by using such place as a landing-place, or by anchoring or otherwise fastening or keeping boats, or by washing horses, cattle or dogs at or near such place, or in any other way.

67.—[*Cruelty to animals.*] *Rep. by Ben. Act I of 1869, s. 8.*

Penalty for drunkenness, or riotous or

68.* Whoever is found drunk and is incapable of taking care of himself, or is guilty of any riotous or indecent behaviour, in any public street or

* This section has been substituted for the originals. 68 by Ben. Act II of 1866, s. 2—see Ben. Act II of 1866, s. 2, *infra*.

thoroughfare, or in any place of public amusement or resort, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for a term not exceeding eight days. indecent behaviour, in public.

68A.[a] Whoever wilfully and indecently exposes his person, or commits a nuisance, by easing himself in, or by the side of, or near to, any public street or thoroughfare or place, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding ten rupees, or, in default thereof, to imprisonment, with or without hard labour, for a term not exceeding three days. Penalty for committing nuisance in streets.

69.—[*Penalty for committing a nuisance in streets.*] *Rep. by Act IV of 1877.*

70. Whoever in any public road, street, thoroughfare or place begs or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment or deformity, with the object of exciting charity or of obtaining alms; or whoever seeks for or obtains alms by means of any false statement or pretences, shall be liable, on summary conviction before a Magistrate, to imprisonment with or without hard labour for any term not exceeding one month. Beggars.

71. It shall be lawful for all persons, and it is hereby declared to be the special duty of all police-officers, to seize all cattle or other animals found straying upon the roads, streets or thoroughfares, or trespassing on any of the grounds or property of the inhabitants, or of the Government, and to confine such animals in any public pound which shall for such purpose be from time to time appointed by the Commissioner of Police; and if such animals shall not be respectively redeemed by the owners of the same within ten days after being so impounded, by paying to the person to be appointed by the said Commissioner to have charge of such pound the fee of eight annas for every goat, sheep or hog, and one rupee for every other animal, together with the expenses of feeding the same while impounded, according to a daily rate to be settled by the said Commissioner, such animals so impounded shall be publicly sold, and the produce of such sale, after paying the said fee and also the expenses of feeding, shall be paid to the owners of such animal, or, in default of their claiming such produce for the space of fifteen days after such sale, shall be retained by the said Commissioner, and credited to any fund applicable to police purposes. Stray animals to be impounded and sold unless redeemed within ten days.

72. Any police-officer may arrest without a warrant any person committing, in his view, any of the offences described or referred to in this Act, [b]if the name and address of such person be unknown to such police-officer, and cannot be ascertained by him then and there.[b] Power to arrest without warrant.

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[a] Section 68A has been added by Ben. Act II of 1886, s. 3—see Ben. Act II of 1886, s. 2, *infra*.

[b-b] These words in s. 72 have been added by Ben. Act II of 1886, s. 4—see Ben. Act II of 1886, s. 4, *infra*.

73.—[*Power to take into custody without warrant.*] *Rep. by Act IV of 1877.*

Apprehension of offenders by private individuals.

74. Whoever commits an offence on or with respect to the person or property of another, or, in committing any of the offences described or referred to in this Act, injures or damages the person or property of another, may, if his name and address be unknown, be apprehended by the person injured, or by any person who may be using the property to which the injury may be done, or by the servant of either of such persons, or by any person authorised by or acting in aid of him, and may be detained until he give his name and address, and satisfy such person that the name and address so given are correct, or until he can be delivered into the custody of a police-officer.

Penalty for assaulting or resisting person apprehending under section 74.

75. If any person lawfully apprehended under the last preceding section shall assault or forcibly resist the person by whom he shall be so apprehended, or any person acting in his aid, he shall be liable to a fine not exceeding two hundred rupees.

Detention of persons taken into custody by police without warrant.

76. Every person taken into custody without a warrant by a police-officer shall be taken to the station-house, in order that such person may be detained until he can be brought before a Magistrate, or until he shall enter into recognizances, with or without sureties, for his appearance before a Magistrate.

Power to take recognizances at station-houses.

77. Whenever any person is brought to a station-house charged with any offence against this Act, or with any of the offences numbered 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 20, 21, 22, 23, 24 and 25 in section 26 of this Act; or whenever a person is in the custody of any police-officer without a warrant, it shall be lawful for the officer in charge of such station-house, or any superior officer of police, if he shall deem it prudent, to enlarge such person on his own recognizance, with or without sureties, conditioned as hereinafter mentioned.

Condition of recognizance.

78. Every recognizance so taken shall be without fee or reward, and shall be conditioned for the appearance of the person thereby bound before the Magistrate at his next sitting, and all persons executing the said recognizance shall acknowledge themselves jointly and severally bound in the sum (not exceeding one thousand rupees) thereby acknowledged, and the time and place of appearance shall be specified in the said recognizance, or in the condition thereof; and the officer taking the recognizance shall enter in a book, to be kept for the purpose, the name, residence and occupation of the party, and his surety or sureties (if any) entering into such recognizance, together with the condition thereof, and the sum thereby acknowledged, and shall return every such recognizance to the Magistrate present at the time and place when and where the party is bound to appear.

On suspicion

79. If information shall be given on oath to the Commissioner of Police*

* Certain words of s. 79, repealed by Act IV of 1877, have here been omitted.

that there is reasonable cause for suspecting that anything stolen or unlawfully obtained is concealed or lodged in any dwelling-house, building or other place, or any ship or vessel, the Commissioner,[a] by special warrant under his hand directed to any police-officer, may cause such dwelling-house, building or other place, or ship or vessel, to be entered and searched at any time of the day or by night, if power for that purpose be given by such warrant; and the said Commissioner,[b] if it shall appear to him necessary, may empower such police-officer, with such assistance as may be found necessary (such officer having previously made known his authority), to use force for the effecting of such entry, whether by breaking open doors or otherwise, and if, upon search thereupon made, such thing shall be found, then to convey the same before a Magistrate, or to guard the same on the spot until the offenders are taken before a Magistrate, or otherwise dispose thereof in some place of safety; and moreover to take into custody, and carry before the said Magistrate, every person found in such house or place, or ship or vessel, who shall appear to have been privy to the deposit of any such thing, knowing or having reasonable cause to suspect the same to have been stolen or otherwise unlawfully obtained.

of goods being stolen or unlawfully obtained, Commissioner may grant search-warrant.

80. If information shall be given to any officer of police, not below the rank of inspector, that there is reasonable cause for suspecting that any stolen property is concealed or lodged in any dwelling-house or other place, and he shall have good grounds for believing that, by reason of the delay in obtaining a search-warrant, the property is likely to be removed, the said officer, in virtue of his office, may search for specific articles alleged to have been stolen in the houses and places specified:

Power to search houses for stolen property without warrant.

Provided always that a list of the articles stolen or missing be delivered or taken down in writing, with a declaration stating that the robbery has been committed, and that the informant has good ground to believe that the property is deposited in such house or place; and provided, further, that the person who lost the goods, or his representative, accompany the officer in the search.

81. It shall be lawful for any police-officer to seize any property or thing which may be found in the possession of any person, where the possession by such person of such property or thing creates a reasonable suspicion of the committal of an offence; and such seizure shall be forthwith reported to the Commissioner of Police, who shall thereupon make such order respecting the custody or production of the property as he shall think proper.

Seizure of stolen property.

82 to 94.—[*Disposal of stolen property in custody of police; Magistrates' power to summon persons charged; summons how served; power to issue warrant; power to enforce attendance of witnesses; fees; power to order prisoners to be*

[a], [b] Certain words of s. 79, repealed by Act IV of 1877, have here been omitted.

brought up; giving false evidence; power to adjourn hearing; power to award costs and amends; levy of fines; distress not unlawful for want of form.] *Rep. by Act IV of 1877.*

If Magistrate certifies non-appearance of person pursuant to recognizance, sum acknowledged may be recovered as fine.

95. If any person, upon entering into such recognizance as is by this Act authorized to be taken, do not afterwards appear pursuant to such recognizance, the Magistrate before whom he ought to have appeared shall certify the fact of such non-appearance on the back of the recognizance, and thereupon the sum thereby acknowledged shall be recoverable in the manner provided by this Act for levying fines.

96, 97, 98.—[*Recognizances; form of judgment; grounds for quashing a conviction.*] *Rep. by Act IV of 1877.*

Limitation of action.

99. *Clause 1.*—All actions and prosecutions against any person, which may be lawfully brought for any thing done, or intended to be done, under the proviisons of this Act, shall be commenced within three months after the act complained of shall have been committed, and not otherwise; and notice in writing of such action, and of the causes thereof, shall be given to the defendant one month at least before the commencement of the action; and in every such action it shall be expressly alleged in the plaint that the act complained of was done maliciously and without reasonable or probable cause; and if at the trial of any such action, upon the general issue being pleaded as hereinafter provided, the plaintiff shall fail to prove such allegation, he shall be non-suited, and a verdict shall be given for the defendant.

Notice of action.

Plea.

Clause 2.—The defendant in any such action may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become non-suit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases; and, though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have cost against the defendant unless the Judge before whom the trial shall be, shall certify his approbation of the action and of the verdict obtained thereupon.

Tender of amends.

Costs.

Power to take charge of moveable property of

100. Whenever any person dies intestate within the said town leaving moveable property therein under two hundred rupees in value, which property is, in the absence of any person entitled thereto, taken charge of by the police

for the purpose of safe custody, it shall be lawful for the Commissioner of Police to order the said property to be delivered, without letters of administration taken out, to any person claiming to be entitled to the whole or any part thereof:

persons dying intestate, and to deliver to claimant.

Provided he shall be satisfied of the title of the claimant, and of the value of the property, by the oath or affirmation of the claimant, or by such other evidence as he may require.*

101. The Commissioner of Police may, at his discretion, before making any order under the preceding section, take such security as he may think proper for the due administration and distribution of such property.

Commissioner may take security for administration.

And nothing hereinbefore contained shall affect the right of any person to recover the whole or any part of the same from the person to whom it may have been delivered pursuant to such order.

Saving of right of other claimant.

102. It shall be lawful for the Commissioner of Police, by order in writing to be affixed at the principal police-stations, and also to be published in some public newspaper, to appoint, from time to time, certain periods within which any dogs found straying in the streets or beyond the enclosures of the houses of the owners of such dogs may be destroyed.

Stray dogs to be killed at certain appointed periods.

103—[*Foreign deserters.*] *Rep. by Act XII of 1875.*

SCHEDULE OF FORMS.

FORM A.—(*Referred to in section 13.*)

A. B. has been appointed a superintendent, inspector, jamadár, dárogha *or* peon (*as the case may be*) in the Calcutta Police-force, and is vested with the powers, functions and privileges of a constable.

FORM B.—(*Referred to in section 97.*)

[*Omitted as that section is repealed.*]

ACT No. V OF 1866.

Received the Lieutenant-Governor's assent on the 24th March, 1866, and the Governor General's assent on the 29th idem.

An Act to make better provision for the regulation of hackney-carriages and palankeens in the town and suburbs of Calcutta.

WHEREAS it is expedient to make better provision for the regulation of

Preamble.

* See Act II of 1874, s. 66, in General Acts, 1867—76, 2nd Ed., p. 460.

hackney-carriages and palankeens in the town and suburbs of Calcutta; It is enacted as follows:—

1.—[*Repeal of Ben. Act I of 1864.*] *Rep. by Act XII of 1873.*

REGISTRATION OF HACKNEY-CARRIAGES.

Carriages to be annually registered.

2. Every hackney-carriage, within the town and suburbs of Calcutta, shall be annually registered by a registering-officer, who shall be appointed for the purpose by the Government, and who shall keep a register in which he shall enter every hackney-carriage, under either the first, the second or the third class.

Registering-officer under control of Commissioner of Police.

Every act, matter or thing done by the registering-officer, under or by virtue of this Act, shall be subject to the order, disposition and control of the Commissioner of Police, so far as the town and suburbs of Calcutta are concerned; and, in respect of other towns and places, of such other officer as the said Lieutenant-Governor shall in that behalf appoint.

[a] But the Local Government may, if it think fit, empower the corporation of the town of Calcutta to appoint such registering-officer, and any officer when so appointed shall, so far as the town and suburbs of Calcutta are concerned, be subject to the order, disposition and control of the said corporation.

The appointment and removal of such registering-officer shall be subject to the provisions of section 45 of the Calcutta Municipal Consolidation Act, 1888.[b] Ben. II of 1888

Time and duration of registry.

3. The year of registration shall commence on the first day of April of each year; and every registration made on any date within such year of registration shall be in force to the end thereof and no longer.

License to be delivered to owner.

The registering-officer shall, at the time of registration, deliver a license to the owner of every hackney-carriage registered as aforesaid.

Such license shall contain the particulars hereinafter described, and shall be in force for the year of registration and no longer.

Application for registry.

4. The owner of any carriage, who is desirous of registering it as a hackney-carriage, must apply to the registering-officer, stating the class in which he desires that the carriage may be registered; and he shall submit the carriage for the inspection of the registering-officer at such convenient time and place as the said officer shall appoint.

Application may be granted or refused.

The registering-officer shall, on examination of the carriage, decide whether the carriage is fit to be registered in the class applied for, and shall accordingly either register it in that class, or refuse to grant the application.

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[a] The two concluding paragraphs of s. 2 have been added by Ben. Act IV of 1878—see that Act, *infra*.

[b] See [illegible] Act II of 1888, s. 2, *infra*.

The person in whose name any carriage is registered shall be deemed the owner of such carriage for the purposes of this Act:

Provided that no carriage shall be registered under the first class, unless the same belong to a coach-builder, hotel-keeper or livery stable-keeper, and do not ply for hire in the public streets.

What carriages to be registered under first class.

5. The following particulars shall be entered in the register and shall be specified in the license to be given to the owner:—

Form of register and license.

1st—the class and the number assigned to the carriage in the register:

2nd—the name and residence of the owner of the carriage:

3rd—the number of horses to be employed in drawing such carriage:

4th—the number of persons the carriage is licensed to carry.

6. A fee of three rupees shall be paid for each registration of a carriage of the first class, and a fee of two rupees for each registration of a carriage of the second or third class under this Act.

Fee for registration.

7. The registering-officer may at his discretion compound, for any period not exceeding one year, with livery stable-keepers and other persons keeping carriages of the first class for hire, for a certain sum to be paid in lieu of all fees payable during that period for the registration of such carriages.

Registering-officer may compound with owners of first class carriages.

8. The registering-officer may cancel the registration of any carriage under this Act, whenever it shall appear to him that such carriage, or any horse or harness used with such carriage, is unfit for public use, due regard being had to the class in which such carriage is registered.

Registry may be cancelled when carriage is unfit.

9. Whenever any change shall take place in the ownership of a hackney-carriage, if the person to whom such carriage shall have been transferred shall desire to use it as a hackney-carriage, he shall, before so using it, give to the registering-officer notice in writing of such transfer, and of his name and place of abode.

Notice on change of ownership.

If any such person shall, before giving such notice as aforesaid, use such carriage as a hackney-carriage, he shall be liable to fine not exceeding five rupees for every day during which he shall so use the same.

10. Whenever the owner or driver of a carriage registered under this Act shall change his residence, he shall give notice thereof in writing signed by him to the registering-officer, specifying in such notice his new residence.

Owners and drivers to give notice of change of residence.

Every such owner or driver who shall change his residence, and shall neglect for one week to give such notice, shall be liable to a penalty not exceeding ten rupees.

11. The registering-officer, on receiving the notices specified in either of the two last preceding sections, shall make the necessary alteration in the register, and no fee shall be chargeable in respect thereof.

Registrar to enter change of residence or ownership without fee.

Penalty for not registering.

12. Whoever keeps, or is the proprietor of, any carriage required by this Act to be registered, and shall omit to have the same so registered, shall be liable to a fine not exceeding one hundred rupees.

Any police-officer may seize and remove to a police-station such carriage, together with the horse or horses drawing the same.

If the carriage so seized be not claimed, and if any fine imposed be not paid, within ten days, such carriage, together with the horse or horses seized with it, may be sold by auction, and the proceeds applied to the payment of the fine, and all costs and charges incurred on account of the detention and sale, and the surplus (if any), if not claimed by the owner within a further period of twenty days, shall be forfeited to the Government.

PLATE ON HACKNEY-CARRIAGE.

Plate, specifying class and number, to be affixed to carriage.

13. Upon the registration of any carriage in the second or third class, the registering-officer shall provide a plate bearing the class and the number of such carriage in the register, and the number of persons it is licensed to carry, and shall cause such plate to be affixed on such conspicuous part of the outside of such carriage as shall to the said registering-officer seem proper.

Penalty for letting carriage without plate.

14. If any carriage shall be let or used for hire without having a proper plate duly affixed as required by the preceding section, the owner thereof shall be liable to a penalty not exceeding fifty rupees.

Owner to have new plate, on loss or obliteration of former one.

15. Whenever the writing on any plate shall become obliterated or defaced, so that the same shall not be distinctly legible, and also whenever any plate shall be proved to the satisfaction of the registering-officer to have been lost or mislaid, the owner of the carriage on which such plate was affixed shall deliver such plate (if he shall have the same in his possession) to the registering officer and shall be entitled to have a new plate affixed, upon payment of such sum of money, not exceeding three rupees, as the registering-officer shall from time to time appoint:

Lost plate, if found, to be delivered to registering-officer.

Provided that if any plate, which shall have been proved as aforesaid to have been lost or mislaid, shall afterwards be found, the same shall forthwith be delivered to the registering-officer; and every person in or into whose possession any such plate as last aforesaid shall be or come, and who shall refuse or neglect for three days to deliver the same to the said registering-officer, and also every registered owner who shall use, or permit to be used, any plate after the writing thereon shall have become obliterated, defaced or obscured, so that the same shall not be distinctly legible, shall, for every such offence, be liable to a penalty not exceeding fifty rupees.

16. On the expiration or other determination of the registration, the owner of any carriage registered as aforesaid shall cause the plate of such carriage to be delivered to the registering-officer.

Penalty on owner for not delivering up plate on expiration of registration.

Any person who, after the expiration of the period aforesaid, shall wilfully neglect for three days to deliver the plate to the said officer, and every person who shall retain any plate affixed in respect of a registration which is no longer in force, shall, for every such offence, be liable to a penalty not exceeding one hundred rupees.

It shall be lawful for the registering-officer, or for any person employed by him for that purpose, to prosecute any person so neglecting to deliver up a plate within twelve calendar months after the expiration of the registration in respect of which such plate was affixed.

17. Every person who shall, for the purpose of deception, use or have any plate resembling or intended to resemble any plate affixed under this Act, shall, for every such offence, be liable to a penalty not exceeding two hundred rupees; and it shall be lawful for any police-officer, or any person employed for that purpose by the registering-officer, to seize and take away any plate, used or had as aforesaid, wheresoever the same may be found, and to deliver the same to the registering-officer.

Penalty for fraudulently using counterfeit plate.

DRIVER'S LICENSE.

18. It shall be lawful for the registering-officer to grant a license to act as driver of hackney-carriages to any person who shall apply for the same and to whom it may seem proper to the said officer to grant it:

Drivers of hackney carriages to be licensed.

Provided that no person shall be so licensed who is under fourteen years of age.

In every such license shall be specified the number of the license, and the name and place of abode and age of the person to whom such license is granted.

Contents of license.

Every license shall bear date on the day on which the same shall be granted, and shall continue in force for one year from the date thereof, unless the same shall be sooner revoked.

And for each such license a fee of two rupees shall be paid.

19. If any person shall act as the driver of a hackney-carriage, without having a license in force for the time being, or, having a license, shall transfer or lend the same, or allow the same to be used by any other person, he shall be liable to a penalty not exceeding twenty rupees, and in default of payment to imprisonment for a period not exceeding one month.

Penalty on driver not having license or lending it.

20. Any owner who shall knowingly suffer any person, not duly licensed under this Act, to act as driver of any carriage registered under this Act, of

Penalty on owner for suffering

unlicensed person to act as driver.

which he shall be the owner, shall be liable to a penalty not exceeding one hundred rupees for every such offence:

Provided that such owner so employing or knowingly suffering to act as driver any person who has not been duly licensed under this Act shall, and such unlicensed driver shall, be subject to all the powers, provisions, penalties and proceedings of and under this Act, for any act done or omitted to be done by such driver during such employment, in like manner as if such driver had been duly licensed.

Certified copies of particulars of license to be given on payment of fee.

21. The particulars of every license which shall be granted under the provisions of this Act shall be entered in books to be kept for that purpose at the office of the said registering-officer, and every person applying shall, at all reasonable times, be furnished with a certified copy of such particulars on payment of a fee of two annas.

DRIVER'S TICKET.

Driver to wear metal ticket.

22. The registering-officer shall, at the time of granting a license to any driver of a hackney-carriage of the second or third class, deliver a metal ticket, upon which shall be marked or engraved a number corresponding with the number of his license.

Every driver to whom such ticket is delivered shall, at all times while acting as driver, or while attending before any Magistrate, carry such ticket exposed to view.

In case any such driver shall omit to wear such ticket exposed to view while acting as driver or attending before a Magistrate, he shall be liable to a penalty not exceeding ten rupees, and in default of payment to rigorous imprisonment for a period not exceeding one month.

Driver entitled to have new ticket on loss or obliteration of former one.

23. Whenever the writing on any ticket shall become obliterated or defaced so that the same shall not be distinctly legible, and also whenever any ticket shall be proved to the satisfaction of the registering-officer to have been lost or mislaid, the person to whom the license relating to any such ticket shall have been granted shall deliver such ticket (if he shall have the same in his possession), and shall produce such license to the registering-officer, and such person shall then be entitled to have a new ticket delivered to him, upon payment of such sum of money, not exceeding one rupee, as the registering-officer shall from time to time appoint:

Provided always that, if any ticket which shall have been proved as aforesaid to have been lost or mislaid shall afterwards be found, the same shall forthwith be delivered to the registering-officer; and every person in or into whose possession any such ticket as last aforesaid shall be or come, who shall refuse or neglect for three days to deliver the same to the said registering-

officer, and also every person licensed under the authority of this Act, who shall use or wear the ticket granted to him after the writing thereon shall be obliterated, defaced or obscured, so that the same shall not be distinctly legible, shall, for every such offence, be liable to a penalty not exceeding twenty rupees.

Penalty for neglecting to deliver up ticket, lending it, &c.

24. Upon the expiration or other determination of any license granted to a driver under this Act, such driver shall deliver such license, and the ticket relating thereto, to the said registering-officer; and every such driver who, after such expiration or determination as aforesaid, shall wilfully neglect for three days to deliver the same to the said officer, and also every person who shall use, or wear or detain any ticket which shall have ceased to be in force, or other than such as shall have been delivered to him under the provisions of this Act, and every person to whom any ticket shall have been delivered as aforesaid, who shall lend such ticket to any other person, and every person who shall wear or use the ticket of any other person, shall, for every such offence, be liable to a penalty of twenty rupees, and, in default of payment, to imprisonment for a period not exceeding one month.

It shall be lawful for the registering-officer, or for any person employed by him for that purpose, to prosecute any person so neglecting to deliver up his license or ticket, at any period within twelve calendar months after the expiration of the license.

Penalty for using or having counterfeit ticket.

25. Every person who shall, for the purpose of deception, use or wear or have any ticket resembling, or intended to resemble, any ticket granted under the authority of this Act, shall for every such offence be liable to a penalty not exceeding one hundred rupees.

And it shall be lawful for any police-officer, or any person employed for that purpose by the registering-officer, to seize and take away any such ticket, or any ticket used for the purpose of deception as aforesaid, wheresoever the same may be found, and to deliver the same to the registering-officer.

Penalty for failing to produce.

26. Whenever any driver shall be summoned to appear before any Magistrate to answer any charge preferred against him under this Act, he shall carry with him his license, and produce the same if required so to do; and any driver who shall on such requisition fail to produce such license shall for every such offence be liable to a fine not exceeding five rupees.

Conviction to be endorsed on driver's license.

It shall be lawful for any Magistrate, on conviction of any driver of any offence under this Act, to endorse on such license the nature of the offence, the date of the conviction, and the amount of the penalty inflicted.

Revocation or suspension of driver's license

27. It shall be lawful for any Magistrate before whom any driver shall be convicted of any offence, whether under this Act or under any other Act, to

on conviction of offence.

revoke the license of such driver, or to suspend the same for such time as the Magistrate shall think proper, and for that purpose to require the driver, or any other person in whose possession such license and the ticket thereto belonging shall then be, to deliver up the same; and every driver or other person who, being so required, shall refuse or neglect to deliver up such license and such ticket, or either of them, shall be liable to a penalty not exceeding twenty rupees, so often as he shall be so required and refuse or neglect as aforesaid: and the Magistrate shall immediately send every license and every ticket delivered up to him under this section to the registering-officer, who shall cancel such license if it has been revoked by the Magistrate, or, if it has been suspended, shall at the end of the time for which it shall have been suspended, re-deliver such license with the ticket (if it shall have come into the possession of the registering-officer) to the person to whom it was granted.

Fares, Hiring and Plying for Hire.

Fares for carriages of the second and third class.

28. The owner or driver of every hackney-carriage registered in the second or third class shall be entitled to demand and take for the hire of such carriage the fares set forth in the schedule (A) to this Act annexed:

Provided always that, when the owner or driver of any such hackney-carriage, to be paid a fare calculated according to the distance, shall be required by the hirer thereof to stop such carriage for any time or times amounting altogether to not less than fifteen minutes, it shall be lawful for the owner or driver to demand and receive from the hirer so requiring him to stop a further sum (above the fare to which he shall be entitled, calculated according to the distance) of one fourth of the rate for one hour, for every fifteen minutes that he shall have been so stopped; and no owner or driver shall demand or receive, over and above the said fare, any sum for back fare for the return of the carriage from the place at which it was discharged:

Provided, also, that nothing in this Act contained shall prevent any driver or owner from being bound by any contract, into which he may enter, to receive payment at a rate lower than that fixed by this Act.

Owner to keep table of fares inside carriages of second and third class.

29. The owner of every hackney-carriage of the second or third class shall put up, and at all times keep distinctly printed, painted or marked in the English, Urdu and Bengali languages, in such manner and in such position as shall be directed by the registering-officer, on the inside of such carriage, the amount of fare according to distance and time which may legally be demanded and taken from the hirer of such carriage as a hackney-carriage; and the owner of every such carriage who shall fail to comply with the provi-

sion of this section shall, for each offence, be liable, on conviction, to a fine not exceeding ten rupees.

To what distance and at what rate of speed driver bound to drive.

30. The driver of every carriage of the second and third class registered under this Act shall (unless he have a reasonable excuse to be allowed by the Magistrate before whom the matter shall be brought in question) drive such carriage to any place to which he shall be required by the hirer thereof to drive the same, not exceeding six miles from the place where the same shall have been hired:

Provided, always, that when any such carriage shall have been hired by time, the driver thereof shall drive the same at a rate not less than four miles within one hour, and, if the driver of such carriage shall be required to drive more than four miles within one hour, then in every such case the driver thereof shall be entitled to demand, in addition to the fare regulated by time in schedule (A) to this Act annexed, for every mile or any part thereof exceeding four miles, the fare regulated by distance as set forth in the same schedule.

Any such driver who shall not drive his carriage at the rate required as aforesaid, except in cases of unavoidable delay, or who shall refuse or omit to drive the same to any place within the limits aforesaid to which he may be required to drive by the hirer, shall be liable to a penalty not exceeding ten rupees, or, in default, to rigorous imprisonment for a period not exceeding one month.

First and second class carriage to carry reasonable quantity of luggage.

31. The driver of every first and second class carriage registered under this Act shall carry in or upon such carriage a reasonable quantity of luggage for every person hiring such carriage, without any additional charge.

Penalty for refusing to let carriage.

32. Any owner or person in charge of any hackney-carriage registered under this Act who shall without sufficient reason refuse to let such carriage for hire shall be liable on conviction to a fine not exceeding fifty rupees, and to pay such further sum by way of compensation to the party complaining, as to the Magistrate who shall hear the case may seem just; and such further sum shall, in default of immediate payment, be levied in the mode provided for the levying of fines under this Act.[a]

And, when any such hackney-carriage shall be standing on any premises which under this Act may have been declared to be a public stand, the owner of the said premises shall be deemed to be the person in charge of such hackney-carriage within the meaning of this section.

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[a] See s 51, *infra*, p. 93.

Penalty on driver for—drunkenness or misconduct,

33. Every driver of a hackney-carriage—

who shall be drunk during his employment, or make use of insulting or abusive language or gesture; or

loitering,

who shall (elsewhere than at some stand or other place appointed for the purpose) stand or loiter, for the purpose of being hired, in or upon any public street, road or place; or

standing across street,

who shall suffer his carriage to stand for hire across any street, or alongside of any other carriage, or who shall refuse to give way (when he reasonably and conveniently may do so) to any other carriage; or

obstructing other driver,

who shall wilfully obstruct or hinder the driver of any other carriage in taking up or setting down any person into, or from, such other carriage; or

preventing hire of other carriage,

who shall wrongfully prevent, or endeavour to prevent, the driver of any other carriage from being hired; or

demanding more than fare, &c.,

who shall demand or take more than the proper fare to which he is legally entitled; or

refusing to carry proper number,

who shall refuse to admit and carry in his carriage the number of persons painted or marked on such carriage or specified in the register; or

carrying in excess,

who shall carry more than such number of passengers; or

refusing to carry luggage,

who shall refuse to carry by his carriage a reasonable quantity of luggage as provided for by this Act; or

deserting before discharge,

who, being hired by time, shall, before he has been discharged by the hirer, desert from the hiring; or

plying with unfit carriage.

who shall ply for hire with any carriage or horse which shall be at the time unfit for public use;

shall be liable to a penalty not exceeding ten rupees, and, in default of payment, to rigorous imprisonment for a period not exceeding one month.

Penalty on drivers absenting themselves.

34. Any driver employed as such by the owner of any carriage registered under this Act, who shall without sufficient excuse refuse or neglect to attend at the premises of such owner for the purpose of driving any such carriage, whereby such owner is prevented from letting out the same, shall, on complaint by such owner, be liable, for each offence, to a fine not exceeding ten rupees (which, or any part of which, may, by order of the Magistrate, be paid to the owner as compensation), and, in default of payment, to rigorous imprisonment for a term not exceeding one month.

Proprietors of carriages may be summoned to appear and produce drivers.

35. When a complaint is made before a Magistrate against the driver of a carriage registered under this Act for any offence committed by him against the provisions of this Act, such Magistrate may forthwith summon the owner of the carriage personally to appear, and to produce the driver of such carriage to answer the complaint.

If such owner, being duly summoned, shall, without a reasonable excuse, neglect or refuse personally to appear, or to produce the driver, according to such summons, he shall be liable to a penalty not exceeding fifty rupees, and so from time to time as often as he shall be so summoned, until such driver shall be produced by him:

Provided that, if such owner shall, without a reasonable excuse, neglect or refuse to appear and produce such driver on the second or any subsequent summons requiring him so to do, it shall be lawful for the Magistrate to proceed to hear and determine the complaint in the absence of the owner and driver or either of them.

Penalty for refusing to pay legal fare and evading payment.

36. If any person who shall have hired a carriage registered under this Act shall refuse to pay to the owner or driver thereof, on demand, the fare payable under this Act, it shall be lawful for the Magistrate who shall hear the case to order payment of such fare, and also of such compensation for loss of time as shall seem reasonable: and, in default of payment, such fare and compensation may be recovered in the same way as fines are recoverable under this Act[a] and, if any hirer who shall have used any such carriage shall attempt to evade payment of his fare, he shall be liable, on conviction, to a fine not exceeding fifty rupees, or to imprisonment for a period not exceeding one month, in addition to the payment of such fare and compensation as hereinbefore mentioned.

Penalty for destroying, &c., table of fares.

37. Any person who shall maliciously or knowingly tear, destroy or remove any table of fares which shall have been put up under the provisions of section 29 of this Act shall be liable on conviction to a fine not exceeding twenty rupees, and any portion of such last-mentioned fine may be awarded to the owner of the hackney-carriage to which such table of fares shall have been affixed.

Penalty for wilful injury to carriage.

38. Any person using a carriage registered under this Act, who shall wilfully injure the same, shall be liable on conviction to a fine not exceeding twenty rupees, and shall also pay to the owner of the carriage compensation for the injury.

The amount of such compensation shall be determined by the convicting Magistrate, and may be recovered in the same way as fines are recoverable under this Act.[a]

Disputes how settled.

39. In case of any dispute between the hirer and driver of any hackney-carriage of the second or third class registered under this Act, the hirer may, if any Magistrate be then sitting, require the driver to drive to the Court

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[a] See s. 51, *infra*, p. 93.

of such Magistrate; and, if any driver shall refuse to obey such requisition, it shall be lawful for the hirer to give such driver into the custody of the nearest police-officer.

Such police-officer shall thereupon take the driver and hirer, together with the carriage and horses, to such Court, and the then sitting Magistrate shall, in either of the cases aforesaid, hear and determine the dispute in a summary way.

Table of distances signed by registering-officer conclusive.

40. In the case of disputes as to the fare to be calculated according to the distance, any table or book signed by the registering-officer shall, on proof of such signature, be taken to be conclusive evidence of all the distances therein stated to have been ascertained by the said officer.

Second and third class carriages may ply as stage-carriages.

41. It shall be lawful for any hackney-carriage of the second or of the third class to ply for hire as a stage-carriage.

The owner or driver of a carriage so plying for hire, or hired as a stage-carriage, shall not be subject to the provisions of section 28 of this Act, but shall be entitled to demand and take for the hire of such carriage such fares as shall be agreed upon between him and the several hirers respectively.

All the other provisions of this Act shall be applicable to the case of a hackney-carriage plying as a stage-carriage, so far as the same shall be applicable in each particular instance.

Stands to be fixed.

42. The registering-officer shall from time to time appoint one or more stands in the town and suburbs of Calcutta for carriages registered under this Act, and may also assign for the use of such carriages, as public stands, any coach-houses or stables or sheds, or other suitable places.

Every public stand so appointed or assigned shall have a board affixed in a conspicuous place in front thereof, containing a notice in the English, Urdu and Bengali languages, that the stand is a public stand under this Act.

PALANKEENS.

Registration of palankeens.

43. Every palankeen plying for hire within the town or suburbs of Calcutta shall be annually registered by the officer appointed for registering hackney-carriages, at the time and in the manner hereinbefore provided with respect to the registration of hackney-carriages; and upon each registration a fee of eight annas shall be paid:

Provided that the registering-officer may refuse to register any palankeen, or may cancel the registration thereof, whenever it may appear to him to be unserviceable or unfit for public use.

Contents of register.

44. The following particulars shall be entered in the register, namely, the number of the palankeen, and the name and residence of the owner; and every change of ownership or residence shall be notified to the registering-officer,

subject to the same provisions and penalties in default as are provided in the case of the owners of hackney-carriages.

Number to be painted on palankeen.

45. The owner of every registered palankeen shall cause the registered number thereof to be painted in English and Bengali figures on a conspicuous part thereof.

Penalty for neglecting to register, or omitting to number.

The owner of any palankeen plying for hire without being registered or having the number affixed thereto as aforesaid shall be liable to a penalty not exceeding ten rupees.

The person in whose name a palankeen is for the time being registered shall be deemed the owner thereof for the purposes of this Act.

Table of fares to be exhibited.

46. The owner of every palankeen shall put up, and at all times keep distinctly printed, painted or marked, in the English, Urdu and Bengali languages, in such manner and in such position as shall be directed by the registering-officer, on the inside of such palankeen, the amount of fare, according to distance and time, which may be legally demanded and taken from the hirer of such palankeen.

Fares for palankeens.

47. The owner or person in charge of every palankeen shall be entitled to demand and take for the hire of such palankeen the fares set forth in the schedule (B) to this Act annexed:

Provided that, when the owner or person in charge of any such palankeen, to be paid a fare calculated according to the distance, shall be required by the hirer thereof to stop such palankeen for fifteen minutes, or for any longer time, it shall be lawful for the owner or person in charge to demand and receive from the hirer so requiring him to stop a further sum (above the fare to which he shall be entitled, calculated according to the distance) of one fourth of the rate for one hour, for every fifteen minutes that he shall have been so stopped; and no owner or person in charge shall demand or receive, over and above the said fare, any sum for back-hire for the return of the palankeen from the place at which it was discharged:

Provided also that nothing in this Act contained shall prevent any owner or person in charge from being bound by any contract, into which he may enter, to receive payment at a rate lower than that fixed by this Act.

Registry of palankeen-bearers, and provisions relating to them.

48. It shall not be lawful for any person to act as the bearer of a registered palankeen, unless such person shall have obtained a license from the registering-officer in manner hereinbefore prescribed for drivers of hackney-carriages; and all the provisions of this Act in any way relating to the taking out, granting, renewing or producing the licenses, or to the issuing, granting, wearing or using tickets granted to drivers of hackney-carriages, shall be applicable in like manner to the bearers of palankeens.

For every license to act as a palankeen-bearer, granted under this Act, there shall be paid a fee of eight annas.

To what distance and at what rate of speed bearers of palankeen bound to go.

49. The bearers of every palankeen registered under this Act shall (unless they have a reasonable excuse to be allowed by the Magistrate before whom the matter shall be brought in question) carry such palankeen to any place to which they shall be required by the hirer thereof to carry the same, not exceeding five miles from the place where the same shall have been hired.

If such palankeen shall have been hired by time, the bearers thereof may be required to carry it at any rate not exceeding two and a half miles within one hour.

Whenever the bearers of such palankeen shall be required to carry it more than two and a half miles within one hour, they shall be entitled to demand, in addition to the fare regulated by time in the said schedule (B), for every mile or any part thereof exceediug two and a half miles, the fare regulated by distance as set forth in the same schedule.

All and every the provisions of this Act, as to offences committed by or against the owners and drivers of hackney-carriages, and the penalties in respect of the same and recovery thereof, and all the remedies by or against hirers, owners or drivers of hackney-carriages, and all and several the remedies given to hirers, owners and drivers of hackney-carriages, except the provision contained in section 35, shall be applicable, so far as the same may reasonably be applied, to the owners and bearers of palankeens.

MISCELLANEOUS.

Property left in carriages or palankeens to be deposited at police-office.

50. The driver of every hackney-carriage and bearers of every palankeen within the limits of this Act, wherein any property shall be left by any person, shall, within twenty-four hours, carry such property, if not sooner claimed by the owner thereof, to the nearest police-station, and shall there deposit and leave the same with the inspector or other officer on duty.

And any such driver or bearer making default herein shall be liable to a penalty not exceeding fifty rupees.

And the said officer with whom any such property shall be deposited shall forthwith enter in a book to be kept for that purpose the description of such property, and the name and address of the driver or bearer who shall bring the same, and the day on which it shall be brought, and the property so entered shall be returned to the person who shall prove to the satisfaction of the Commissioner of Police that the same belonged to him, such person previously paying all expenses incurred, together with such reasonable sum to the driver or bearers who brought the same as the said Commissioner shall award:

Provided always that, if such property shall not be claimed by and proved to belong to some one within one year after the same shall have been deposited, the said Commissioner shall cause such property to be sold or otherwise disposed of, and the proceeds, after deducting the expenses, together with a reasonable sum to the driver or bearers, shall be applied in the same manner as fees and penalties received under this Act.

Adjudication of penalties.

51. All complaints as to offences against this Act shall be heard and determined by a Magistrate within whose local jurisdiction the offence may be alleged to have been committed: and the provisions for the recovery of fines contained in sections 386, 387 and 389 of the Code of Criminal Procedure, 1882,[a] shall apply to all fines and penalties imposed under this Act by any Magistrate in the suburbs of Calcutta or in any town or place to which this Act shall be extended as hereinafter provided; and the provisions of Act IV of 1866,[b] passed by the Lieutenant-Governor of Bengal in Council, entitled the Calcutta Police Act, 1866, or any other Act for regulating the police of the town of Calcutta in force for the time being, shall apply to all fines and penalties imposed under this Act by any Magistrate of Police for the town of Calcutta.

X of 1882.

Disposal of penalties and fees.

All penalties and fees[c] to be levied under this Act shall be disposed of in such manner as the Lieutenant-Governor of Bengal, from time to time, shall direct.

Amends for frivolous complaints.

52. In every case in which any complaint of any offence under this Act shall be laid or made before any Magistrate and shall not be further prosecuted, or in which, if further prosecuted, it shall appear to the Magistrate by whom the case shall be heard that there was no sufficient ground for making the complaint, the Magistrate shall have power to award such amends, not exceeding twenty rupees, to be paid by the complainant to the person complained against, or to the owner of a carriage, if summoned under section 35 of this Act, or to both, for their loss of time and expenses in the matter, as to the Magistrate shall seem meet.

Such amends shall be recoverable in the manner provided for levying fines under this Act.[d]

Interpretation.

53. The following words and expressions in this Act shall have the mean-

[a] See Act X of 1872, s. 2 and Sch. V; also Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p 242.

[b] See *supra*, p 61.

[c] As to application of these fees towards expenses of hospital established under the Contagious Diseases (Animals) Act, 1880, see Ben. Act VIII of 1880, s. 6, *infra*.

[d] See s. 51, *supra*.

ings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say—

"Magistrate."

the word "Magistrate" in this Act shall mean any Magistrate of Police[a] for the town of Calcutta, and any person lawfully exercising the full powers of a Magistrate[b] in the suburbs of the said town or in any town or place to which this Act shall be extended, as hereinafter provided, and any assistant to a Magistrate or Deputy Magistrate specially authorized by Government to exercise in the said suburbs, town or place the powers vested by this Act in a Magistrate:

"Hackney-carriage."

the words "hackney-carriage" in this Act shall mean any carriage used or intended to be used for conveying passengers for hire from any place in the town of Calcutta or the suburbs thereof:

Provided always that the term "hackney-carriage" shall not include any carriage used wholly upon any railway:

"Stage-carriage."

the words "stage-carriage" in this Act shall mean any hackney-carriage, the passengers in which shall be charged, or shall pay, separate and distinct fares, or shall be charged, or pay, at the rate of separate and distinct fares, for their respective places or seats therein, or conveyance thereby:

"Horse."

the term "horse" shall include mules and ponies:

Number.

words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number:

Gender.

words importing the masculine gender shall include the feminine.

Power to extend Act.

54. It shall be lawful for the Lieutenant-Governor of Bengal, by a notification to be published in the Calcutta Gazette, to extend the provisions of this Act to any other towns or places[c] within the Provinces under his control.

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[a], [b] Now Presidency Magistrate and Magistrate of the first class, respectively—see Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

[c] For list of places to which this Act has been extended, see Appendix.

SCHEDULE A.—(*Referred to in section 28.*)

Rates and Fares to be paid for Hackney-carriages of the Second and Third Classes.

Description of Carriage.	Fare by Distance.		Fare by Time.			
	For any distance within and not exceeding one mile.	For any distance exceeding one mile.	For any time within and not exceeding one hour.	For every hour or part of an hour beyond one hour.	For half a day, or five hours.	For a whole day consisting of nine hours
Second Class	6 annas	After the rate of 4 annas for every mile and for any part of a mile over and above any number of miles completed.	12 annas	6 annas	2 rupees	3 rupees.
Third Class	3 annas	After the rate of 2 annas for every mile and for any part of a mile over and above any number of miles completed.	6 annas	3 annas	1 rupee	1 rupee 8 annas.

The above fares to be paid according to distance or time, at the option of the hirer, to be expressed at the commencement of the hiring; if not otherwise expressed, the fare to be paid according to time.

SCHEDULE B.—(*Referred to in section 47.*)

Rates and Fares to be paid for Palankeens.

Fare by Distance.		Fare by Time.			
For any distance within and not exceeding one mile	For any distance exceeding one mile.	For any time within and not exceeding one hour.	For every hour or part of an hour beyond one hour.	For half a day, or five hours.	For a whole day consisting of nine hours.
3 annas . .	After the rate of 3 annas for every mile and for any part of a mile over and above any number of miles completed.	6 annas . .	3 annas . .	1 rupee . .	1 rupee 8 annas.

The above fares to be paid according to distance or time, at the option of the hirer, to be expressed at the commencement of the hiring; if not otherwise expressed, the fare to be paid according to time.

ACT No. VII OF 1866.[a]

Received the Lieutenant-Governor's assent on the 14th April, 1866, and the Governor General's assent on the 30th idem.

An Act to make better provision for the acquisition of land for embankments, and other matters relating thereto.

WHEREAS it is expedient to make better provision for the acquisition of land required for embankments, and for charging the expense thereof upon the owners of lands benefited thereby; Be it enacted :— Preamble

1. When it shall be necessary for any Collector to acquire land for the purpose of constructing any public embankment, or of extending or altering any embankment, the superintendence or charge whereof is vested in an officer of Government, the provisions of the Land Acquisition Act, 1870,[b] and of any other Act for the time being in force relating to the acquisition of land for public purposes, shall extend and apply to the acquisition of such land for the purpose aforesaid, so far as the same shall be applicable, and such Collector shall and may take and acquire such land, and assess compensation for the same, and do all other acts necessary for the acquisition thereof, by and under the powers and provisions of such Act or Acts so far as the same is or are applicable in that behalf; but no such declarations or orders by or on behalf of Government as are mentioned in sections 6 and 7 of the said Land Acquisition Act, 1870,[b] shall be necessary or required. Lands for embankments may be acquired under powers for acquiring land for public purposes.

X of 1870.

Any person to whom compensation has been awarded in respect of lands taken shall be entitled to receive the same together with interest after the rate of six per centum per annum from the time when the land was taken:

Provided that notwithstanding any thing contained in section 7, clause 1, of Act XXXII of 1855[c] passed by the Governor General of India in Council, entitled "An Act relating to embankments," it shall not be obligatory upon the Collector to pay to any person, nor shall any person have a right to a civil suit for the recovery of, any money in respect of compensation for lands taken, where the same is payable as hereinafter provided by the persons whose lands are benefited, until and unless the Collector shall have received the same from such person.

2. In cases where lands, the property of different owners, will in the opinion of the Collector derive benefit from the construction, alteration or extension of any public embankment, and it is necessary to acquire land for the Charging cost of land acquired, where lands of differ-

[a] This Act has been repealed, except so far as relates to Orissa and the Sundarbans, by Ben. Act VI of 1873.
[b] See Act X of 1870, s. 2, in General Acts, 1867—76, 2nd Ed., p. 177.
[c] See Vol. I, p. 292.

ent owners benefited.

purpose of such construction, alteration or extension, it shall be lawful for such Collector to charge the cost of such land and the expense attending its acquisition upon the persons so deriving such benefit, in such proportions as in his opinion shall be equivalent to the benefit derived by their lands respectively.

Before assessing such contribution the Collector shall cause a notice to be served on each of such persons, in which it shall be stated what land is being taken, and the purpose for which it is required, and that the lands of such person will derive benefit from the execution of the works, and giving him notice that an inquiry will be held, at a day and place to be named, for the purpose of apportioning amongst the persons whose lands will be benefited by the intended works the cost of the land and the expense of acquiring it.

In case such person does not reside within the district in which his lands are situate, the notice may be served upon his agent, or, if he has no agent therein, it will be sufficient to affix the notice upon some conspicuous part of his estate.

Mode of inquiry as to proportion chargeable to each estate.

3. On the day fixed in the notice, which shall not be less than one month later than the date of service of such notice, the Collector shall proceed to make the necessary inquiry for the determination of the proportion in which the estates affected by the construction, extension or alteration of the embankment will be benefited thereby.

In making this inquiry he shall receive such evidence as may be tendered by or on behalf of the owners of estates which may appear likely to be benefited by the construction, extension or alteration of the embankment as aforesaid, and by and on behalf of any other persons who may claim to be interested in the said inquiry, and he may make or cause to be made such local investigation, and call for such documents, and examine such witnesses, as he may think necessary; and all the provisions of the law* for the time being in force in regard to the examination of witnesses and production of documents in judicial proceedings shall be applicable to inquiries conducted by the Collector under this Act.

Power to make award stating names of owners of lands benefited and proportion of cost payable.

4. The Collector shall and may after such inquiry make an award, in which he shall find and state the names of the persons whose lands will be or are benefited by the construction, alteration or extension of such embankment, and the proportion of the cost of the land and the expense of its acquisition (including therein the cost of the said inquiry) which they ought, respectively, to bear.

No appeal from award.

No appeal shall lie from the award of the Collector.

* See Act XIV of 1882, Chapters XIV and XV, in General Acts, 1882—84, pp. 73 *et seq.*

But it shall be competent to the owner of any land assessed to a larger amount than his fair proportion to recover such excess in the Civil Court from the owner of any land or estate benefited thereby upon whom no assessment has been made or a smaller amount has been assessed than ought to have been awarded against him :

but one owner may recover from another not assessed or under-assessed.

Provided that in such suit no more shall be recovered from any person than the amount to which he ought to have been assessed where he has not been required to contribute, or the amount by which the sum he was required to pay was less than his fair proportion where he has been required to contribute.

Expense included in cost of acquiring land.

5. There shall be included in the expense of acquiring the land so to be distributed amongst the persons benefited not only the compensation awarded to the owner of the land taken, including interest at the rate of six per centum per annum from the time when the land was taken, but also the cost of surveys and plans, of notices, of the said inquiry and award, and all other costs, charges and expenses incident to obtaining possession of such land.

The amount so awarded shall and may be recovered from the person so required to pay the same in the same way and by the same means as arrears of Government revenue.[a]

Expenses of sluice apportioned where lands of different owners benefited.

6. When application has been made to the Collector under section 8 of the said Act XXXII of 1855[b] for the construction of a sluice in any public embankment, and in the opinion of the Collector lands, the property of other persons as well as of the person making the application, will be benefited by the construction of the sluice, the expense of such construction may be assessed upon and recovered from such persons in such shares or proportions as shall, in the opinion of the Collector, be equivalent to the benefit derived by their lands respectively :

Provided, nevertheless, that notice in writing shall be served on all such persons, stating that it is proposed to make such sluice, the probable expense thereof, and that an inquiry will be held at a place and hour specified, for the purpose of apportioning the expense of such construction among the persons to be benefited thereby, and that such person is supposed to be likely to be benefited thereby.

And such notice may be served, and such inquiry shall be held, and such award shall be made, subject to the same rules, powers and provisoes in all respects as is hereinbefore provided in the case of the apportionment of the cost of land required for embankments.

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[a] See Act XI of 1859, in Vol. I, p. 380, and Ben. Acts III of 1862, *supra*, p. 1, VII of 1868, *infra*, p. 116 and VII of 1880, *infra*.

[b] See Vol. I, p. 295.

And the said award shall be final: but a civil suit may be brought to recover any excess with which any such person may be charged from persons who ought to have been charged but have not been charged with any portion of the expense, or against whom less has been awarded than their fair proportion, as hereinbefore provided with respect to the apportionment of the cost of land.

Disposal of lands no longer required for embankments.

7. Whenever, in consequence of the construction or alteration of any public embankment, the maintenance of any other public embankment, or the retention of any land appropriated to the purposes thereof, may no longer be required, and the permanent relinquishment of the same may be deemed expedient by the officer in charge of the embankments, it shall be lawful for the Collector to dispose of the site of the embankment, or of the land so abandoned, by public sale; and all the provisions of the law for the time being in force in regard to sales of land in default of payment of the Government revenue* shall be applicable, so far as the same may be reasonably applied, to sales under the provisions of this section.

The proceeds of such sales shall, after the payment of all expenses incurred on account of the same, be applied to the payment of the cost of the new land taken up for embankment-purposes, and in such case the residue only of the cost of such new land shall be apportioned among the owners of lands benefited as hereinbefore provided:

Provided that it shall not be competent to the Collector to sell in the manner aforesaid any land which shall not have been taken up for embankment-purposes under the provisions of this Act.

Collector may delegate powers to Deputy Collector.

8. A Collector may delegate any of his powers under this Act to a Deputy Collector, but from any order passed by a Deputy Collector to whom powers have been so delegated an appeal shall lie to the Collector, if presented within fifteen days of the date of the order.

Act does not apply where obligation to provide land exists.

9. Nothing in this Act shall be held to exempt any person from the obligation of giving land gratuitously, or of paying for land taken up for the purpose of public embankments, where such obligation exists by any law or custom.

Interpretation.

10. The following words and expressions shall have the several meanings hereby assigned to them, unless where a contrary intention appears from the context:—

Number.

words in the singular number shall include the plural, and words in the plural shall include the singular:

Gender.

words importing the masculine gender shall include females:

* See first foot-note on preceding page.

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the word "Collector" shall include any officer exercising, by authority of Government, the duties of a Collector of land-revenue, by whatever name his office may be designated: "Collector."

the word "owner" shall include zamindárs, holders of patni tenures or of any rent-free tenure, dependent taluqdárs, Sundarban grantees and farmers or holders of tenures paying revenue direct to Government. "Owner."

ACT No. II OF 1867.[a]

Received the Lieutenant-Governor's assent on the 20th March, 1867, and the Governor General's assent on the 1st April, 1867.

An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the territories subject to the Lieutenant-Governor of Bengal.

WHEREAS it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses in the territories subject to the Lieutenant-Governor of Bengal; It is enacted as follows:— Preamble.

1. In this Act, "common gaming-house" means any house, tent, room, space or walled enclosure, in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, tent, room, space or enclosure, whether by way of charge for the use of the instruments of gaming or of the house, enclosure, room or place, or otherwise howsoever: Interpretation-clause. "Common gaming-house."

words importing the masculine gender shall include the feminine: Gender.

words importing the singular number shall include the plural, and words importing the plural number shall include the singular. Number.

2. It shall be competent to the Lieutenant-Governor of Bengal, whenever he may think fit, to extend, by a notification to be published in the three successive numbers of the Calcutta Gazette, all or any of the sections of this Act to any city, town (save the town of Calcutta as defined by Act VI of 1863[b] passed by the Lieutenant-Governor of Bengal in Council), or place[c] within the territories subject to his government, and in such notification to define, for the purposes of this Act, the limits of such city, town or place, and from time to time to alter the limits so defined. Power to extend Act.

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[a] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2; also in the Districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan, under s. 3 of the Scheduled Districts Act, 1874—see Vol. I, p. 676.

[b] Ben. Act VI of 1863 has been repealed by Ben. Act IV of 1876, which again has been repealed by Ben. Act II of 1888.

[c] For list of places to which the Act has been extended, see Appendix.

Penalty for owning or keeping, or having charge of, gaming-house.

3. Whoever, being the owner or occupier, or having the use, of any house, tent, room, space or walled enclosure, situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming-house; and whoever, being the owner or occupier of any such house, tent, room, space or walled enclosure, as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming-house; and whoever has the care or management of, or in any manner assists in conducting, the business of any house, tent, room, space or walled enclosure as aforesaid, opened, occupied, used or kept for the purpose aforesaid; and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, tent, room, space or walled enclosure, shall be liable, on conviction before any Magistrate, to a fine not exceeding two hundred rupees or to imprisonment of either description as defined in the Indian Penal Code[a] for any term not exceeding three months. XLV of 1860.

Penalty for being found in gaming-house.

4. Whoever is found in any such house, tent, room, space or walled enclosure, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable, on conviction before any Magistrate, to a fine not exceeding one hundred rupees or to imprisonment of either description as defined in the Indian Penal Code[a] for any term not exceeding one month; and any person found in any common gaming-house during any gaming or playing therein, shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Power to enter and authorize police to enter and search.

5. If the Magistrate of a district,[b] or other officer invested with the full powers of a Magistrate,[c] or the District Superintendent of Police, upon credible information, and after such inquiry as he may think necessary, has reason to believe that any house, tent, room, space or walled enclosure is used as a common gaming-house,

he may either himself enter, or by his warrant authorize any officer of police, not below such rank as the Lieutenant-Governor shall appoint in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, tent, room, space or walled enclosure, and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer finds therein, whether or not such persons may be then actually gaming;

and may seize or authorize such officer to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably sus-

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[a] See Act XLV of 1860, s. 58, in General Acts, 1834—66, 2nd Ed., p. 249.

[b] See Now District Magistrate and Magistrate of the first class, respectively—see Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

pected to have been used or intended to be used for the purpose of gaming, which are found therein;

and may search or authorize such officer to search all parts of the house, tent, room, space or walled enclosure which he or such officer shall have so entered, when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such search.

Finding cards, &c., in suspected houses to be evidence that they are common gaming-houses.

6. When any cards, dice, gaming-table, cloth, boards or other instruments of gaming are found in any house, tent, room, space or walled enclosure entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, tent, room, space or walled enclosure is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or police-officer, or by any person acting under the authority of either of them.

Penalty on persons arrested for giving false names and addresses.

7. If any person found in any common gaming-house entered by any Magistrate or officer of police under the provisions of this Act, upon being arrested by any such officer, or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may, upon conviction before the same or any other Magistrate, be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

On conviction for keeping gaming-house, instruments of gaming to be destroyed.

8. On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money, and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Proof of playing for stakes unnecessary.

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any

common gaming-house, to prove that any person found playing therein at game was playing for any money, wager or stake.

Act not to apply to certain games.

10. Nothing in the foregoing provisions of this Act contained shall be held to apply to billiards, whist or any other game of mere skill wherever played.

Gaming and setting birds and animals to fight in public streets.

11. A police-officer may apprehend without warrant any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming, used in playing any game not being a game of mere skill, in any public market, fair, street, place or thoroughfare situated within the limits aforesaid, or any person setting any birds or animals to fight in any public market, fair, street, place or thoroughfare situated within the limits aforesaid, or any person there present aiding and abetting such public fighting of birds and animals.

Such person, when apprehended, shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month, and such police-officer may seize all birds and animals and instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may, on conviction of the offender, order such instruments to be forthwith destroyed, and such birds and animals to be sold.

Destruction of instruments of gaming.

Offences by whom triable.

12. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure, 1882,[a] as to the amount of fine or imprisonment he may inflict. X of 1882.

Penalty for subsequent offence.

13. Whoever, having been convicted of an offence punishable under this Act, shall be guilty of any such offence, shall be subject for every such subsequent offence to double the amount of punishment to which he would otherwise have been liable for the same:

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

Recovery and application of fines.

14. The provisions for the recovery of fines contained in sections 64, 65, 66 and 67 of the Indian Penal Code[b] and sections 386, 387 and 389 of the Code of Criminal Procedure, 1882,[c] shall apply to all fines and penalties imposed under this Act in any town or place other than the town of Calcutta; and such fines shall (subject to the provisions contained in the last preceding section) be applied as the said Lieutenant-Governor shall from time to time direct. XLV of 1860. X of 1882.

And the provisions of Act IV of 1866[d] passed by the Lieutenant-Governor

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[a] See Act X of 1882, s 3, in General Acts, 1882 (Pt I), p. 242.
[b] See General Acts, 1834—66, 2nd Ed, pp. 250, 251.
[c] See Act X of 1872, s. 2 and Sch. V; also Act X of 1882, s 3, in General Acts, 1882 (Pt I), p. 242.
[d] See *supra*, p 61.

of Bengal in Council, and of every other Act for regulating the police of the town of Calcutta for the time being in force, shall apply to all fines and penalties imposed under this Act by any Magistrate of Police[a] for the town of Calcutta.

Offences under Act.

15. Any thing made punishable by this Act shall be deemed to be an "offence" within the meaning of the Indian Penal Code.[b]

XLV of 1860.

Certain sections to apply without extension.

16. The provisions of sections 7 and 11 of this Act shall, from and after the passing of this Act, apply to the town of Calcutta, and to the suburbs of the town of Calcutta as the same may be from time to time defined by any notification published by the Lieutenant-Governor in pursuance of Act II of 1866[c] passed by the Lieutenant-Governor of Bengal in Council; and the provisions of section 13 of this Act shall, from and after the passing of this Act, apply to the whole of the said territories.

Immediate and prospective repeal of sections of Ben. Acts II and IV of 1866.

17. From and after the passing of this Act the provisions of section 32 of Act II of 1866 passed by the Lieutenant-Governor of Bengal in Council, and of section 52 of Act IV of 1866 passed by the same authority, shall stand and be repealed; and, from and after any extension of this Act to the suburbs of the town of Calcutta, the provisions of sections 25, 26, 27, 28, 29 and 30 of the said Act II of 1866 shall stand and be repealed.

ACT No. III OF 1867.

Received the Lieutenant-Governor's assent on the 20th March, 1867, and the Governor General's assent on the 30th April, 1867.

An Act to amend the law relating to ships lying in ports in the Provinces under the control of the Lieutenant-Governor of Bengal.

Preamble.

WHEREAS it is expedient to amend the law relating to merchant-ships lying in ports in the Provinces under the control of the Lieutenant-Governor of Bengal; It is enacted as follows :—

Interpretation.

1. The following words and expressions for the purposes of this Act have the meanings hereby assigned to them, unless where a contrary intention appears from the context, that is to say :—

"Master."

the word "master" denotes any person having temporary or permanent command or charge of any vessel otherwise than in the capacity of pilot or harbour-master:

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[a] Now Presidency Magistrate—see Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.
[b] See General Acts, 1834—66, 2nd Ed., p. 240.
[c] See foot-note to s. 1 of Ben. Act II of 1866, *supra*, p. 46

"Owner." the word "owner" includes any agent acting for and on behalf of the owner of a ship at the port at which such ship shall lie or be:

"Port." the word "port" denotes any port within the Provinces aforesaid, subject to the provisions of the Indian Ports Act, 1889:[a] X of 1889.

"Magistrate." the word "Magistrate" includes any officer exercising any of the powers of a Magistrate under the Code of Criminal Procedure, 1882,[b] and any Magistrate of Police[c] for the town of Calcutta: X of 1882.

"Municipal town." the expression "municipal town" denotes the town of Calcutta and every town, suburb, station, bázár, village and tract of country to which the provisions of Act III of 1864[d] (*the District Municipal Improvement Act*) passed by the Lieutenant-Governor of Bengal in Council have been or shall be extended:

Number. words importing the singular number include the plural, and words importing the plural number include the singular.

Penalty for not having sufficient crew on vessels lying in port.

2. If any vessel of more than ten tons burden shall, without such license as hereinafter is mentioned, be afloat in any port within the Provinces under the control of the Lieutenant-Governor of Bengal, without having on board thereof a crew of not less than the number set forth in the first schedule hereto, the master of such vessel, and in case there shall be no master of such vessel then the owner thereof, shall be punished with a fine not exceeding five hundred rupees.

Power to exempt from maintaining crew on particular ships.

3. Whenever it shall appear to the conservator of any port that any vessel in such port may, without danger to other vessels in such port, be afloat without such crew as hereinbefore is mentioned being maintained thereon, it shall be lawful to such conservator, if he shall think fit, to grant under his hand a license in the form A in the second schedule hereto, which license may be made determinable on the breach of any conditions therein contained; and during the continuance of such license the provisions of section 2 of this Act shall not apply to such vessel.

Power to revoke exemption.

4. It shall be lawful for such conservator, by any writing under his hand in the form B in the second schedule hereto, to revoke such license; and, from and after the publication of such revocation, by posting a copy thereof upon some conspicuous part of such vessel, the provisions of section 2 of this Act shall apply to such vessel and to the master and owner thereof as if no such license had ever been granted.

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[a] See Act X of 1889, s. 2 (5). [b] See Act X of 1882, s. 3.

[c] Now Presidency Magistrate—see Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

[d] Ben. Act III of 1864 has been repealed by Ben. Act V of 1876, which again has been repealed by Ben. Act III of 1884.

5. Whenever it shall appear to the conservator of any port that any creek, river or dock is so situate that vessels without any crew therein may remain afloat in such creek, river or dock, without danger to any vessels in any part of such port, it shall be lawful for such conservator to make an order in the form C in the second schedule hereto, and from time to time, if he shall think fit, to revoke or amend such order: **Power to make order with respect to portions of ports.**

Provided always that every such order, amendment and revocation shall be published in the Calcutta Gazette, and that no such order, amendment or revocation shall have any force or effect until it shall have been so published.

6. During such time as any such order shall remain in force the provisions of section 2 of this Act shall not apply to any vessel lying or being within the limits of any such creek, river or dock, as the same shall be defined by such order. **Application of section 2 to certain ships.**

7.—[*Penalty on master omitting to take order to extinguish fire.*] *Rep. by Act XII of 1875.*

8. It shall be lawful for the Lieutenant-Governor of Bengal to order (if and when he shall in his discretion think fit) that the entire or any portion of the expense of maintaining the police-force in any part which may be within or abutting upon any municipal town shall be borne by and paid out of the port-fund of such port. **Power to charge port-police upon port-fund.**

9. It shall be lawful for the Lieutenant-Governor of Bengal, from time to time, to assign to the persons charged with the management of the municipal fund of any municipal town upon which any port may be abutting, or within which any port may be, such annual sums to be charged upon and payable out of the port-fund of such port as to him shall seem just and reasonable for or towards reimbursing to such municipal fund such portion of the expense of the police-force in such town as may, in the opinion of the said Lieutenant-Governor of Bengal, be rendered necessary by the resort to such town of seamen from ships lying or being in such port. **Power to charge upon port-fund portion of expense of municipal police.**

10. In case the port-fund of any port shall, after providing for the payment of all sums and charges now by law payable out of such port-fund, be insufficient to pay any expense of police and annual sums which shall, under the provisions aforesaid, be payable thereout, it shall be lawful for the said Lieutenant-Governor of Bengal, and he is hereby required, to order that there shall be paid, in addition to all port dues and charges payable in respect of any ship from time to time lying or being in such port, such port-dues, to be called police-port-dues, as shall thereunto be necessary: **Power to impose police-port-dues.**

Provided that the same shall not exceed the port-dues in that behalf mentioned in the third schedule to this Act.

11, 12, 13.—[*Imposition and application of Hospital Port-dues;*[a] *power to refuse Port-clearance till expenses under Merchant Shipping Act, 1854, s. 228, are paid.*] *Rep. by Act XII of 1875.*

Power to compound port-dues.

14. It shall be lawful for the owner of any vessel to pay to the conservator of any port three times the amount of the police-port-dues and hospital-port-dues[a] which would, for the time being, be payable in respect of such vessel, and thereby to discharge such vessel from all further police-port-dues and hospital-port-dues in such port for the space of twelve calendar months from the day of the date of such payment.

Power to vary port-dues.

15. It shall be lawful for the Lieutenant-Governor of Bengal, from time to time, to vary the rate of police-port-dues and hospital-port-dues[a] payable in any port, as to him in his discretion shall seem fit, so as that the same shall not exceed the rates in the third schedule respectively set forth.

Imposition or increase of port-dues to be published.

16. No order of the Lieutenant-Governor of Bengal, imposing or increasing any port-dues under this Act, shall take effect until the expiration of six calendar months from the day upon which such order shall have been published in the Calcutta Gazette.

Recovery of penalties.

17. All complaints as to offences against this Act shall be heard and determined by a Magistrate within whose local jurisdiction the offence may be alleged to have been committed: and the provisions for the recovery of fines contained in sections 64, 65, 66 and 67 of Act XLV of 1860 (the Indian Penal Code)[b] and in sections 386, 387 and 389 of the Code of Criminal Procedure, 1882,[c] shall apply to all fines and penalties imposed under this Act by any Magistrate in any port other than the port of Calcutta; and the provisions of Act IV of 1866[d] passed by the Lieutenant-Governor of Bengal in Council, and every other Act for regulating the police of the town of Calcutta in force for the time being, shall apply to all fines and penalties imposed under this Act by any Magistrate of police[e] for the town of Calcutta. X of 1882.

Penalties how disposed of.

18. All penalties levied under this Act shall be applied as fines received under the said Indian Ports Act, 1889,[f] are directed to be applied. X of 1889.

Construction.

19. This Act shall be construed together with and as part of the said Indian Ports Act, 1889.[f]

20.—[*Commencement of Act.*] *Rep. by Act XII of 1873.*

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[a] As to the imposition and application of hospital port-dues, see now Act X of 1889, ss. 49 and 50.

[b] See General Acts, 1834—66, 2nd Ed., pp 250, 251.

[c] See Act X of 1872, s. 2 and Sch. V; also Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

[d] See *supra*, p. 61.

[e] Now Presidency Magistrate—see Act X of 1882, s. 3.

[f] See Act X of 1889, s. 2 (*8*).

THE FIRST SCHEDULE (*referred to in section 2*).

	If Natives.	If Europeans.	Officers in charge.
Cargo-boats	4	4	0
Vessels, not being cargo-boats, of 600 tons and under, in moorings	6	4	1
For every additional 100 tons	1½	1	0
Vessels, not being cargo-boats, of 600 tons and under, in stream	11	7½	1
For every additional 100 tons	2	1	0

THE SECOND SCHEDULE (*referred to in sections 3, 4 and 5*).

FORM A.

Port of ( )

I ( ) Conservator of the Port of ,
do hereby license the (*ship*) of which
is master, to remain at her present moorings, in the said port, without having on board the crew required by Act III of 1867 of the Lieutenant-Governor of Bengal in Council:

Provided always that, on breach of any of the conditions hereunder written, this license shall forthwith absolutely cease and determine.

FORM B.

Port of ( )

I ( ) Conservator of the Port of
do hereby revoke all license to the (*ship*) to remain in port without a crew therein.

FORM C.

Port of ( )

I ( ) the Conservator of the Port of ,
do hereby order that vessels lying in the following portion of the said port (*here set out the exempted limits*) shall be exempt from the provisions of the second section of Act III of 1867 passed by the Lieutenant-Governor of Bengal in Council.

THE THIRD SCHEDULE (*referred to in sections 10, 11*[a] *and 15*).

PORT-DUES.

Police-port-dues.

For every vessel entering any port, two annas per ton.

Hospital-port-dues.[b]

For every vessel entering any port, one anna per ton.

ACT No. IV OF 1867.[c]

Received the Lieutenant-Governor's assent on the 30th April, 1867, and the Governor General's assent on the 21st May, 1867.

An Act to explain and amend Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.

Preamble.

WHEREAS certain appeals under Act X of 1859[d] of the Governor General of India in Council, entitled an Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal, and under Act VI of 1862[e] passed by the Lieutenant-Governor of Bengal in Council, entitled an Act to amend Act X of 1859, have been referred to Deputy Collectors by Collecters under the belief that power so to refer such appeals is conferred by section 19 of the said Act VI of 1862; and whereas some of the said appeals so referred have been heard and determined by such Deputy Collectors; and whereas certain appeals have been heard and determined by Deputy Collectors placed in charge of subdivisions of districts under the belief that they had power to hear and determine such appeals; and whereas it is expedient that the judgments passed by such Deputy Collectors on such appeals should be made valid, and that provision should be made for the more speedy determination of appeals in certain cases; It is hereby declared and enacted as follows:—

Interpretation.

1. Words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

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[a] S. 11 has been repealed—see *supra*, p. 108.

[b] As to the imposition of hospital port-dues, see now Act X of 1889, s. 49.

[c] This Act has been declared in force, under s. 3 of the Scheduled Districts Act, 1874, in the District of Manbhoom—see Vol. I, p. 676.

It has been repealed by Ben. Act I of 1879, s. 3, in the Division of Chota Nagpore (except the District of Manbhoom and the Tributary Mahals) and by Act VIII of 1885, s. 2, in Bengal (except Calcutta, Orissa and the Scheduled Districts).

The Act now remains in force only in the Orissa Division, Manbhoom, and part of the Jalpaiguri District.

[d] See Vol. I, p. 343.

[e] See *supra*, p. 3.

2. Save as hereinafter appears, every judgment, decree and order before the passing of this Act passed or made on any appeal by any Deputy Collector to whom such appeal may have been referred by the Collector having jurisdiction to decide such appeal shall be as valid and binding and have the same force and effect as if the same had been passed or made by such Collector.

Prior order by Deputy Collectors on referred appeals confirmed.

3. Save as hereinafter appears, every judgment, decree and order before the passing of this Act passed or made by any Deputy Collector placed in charge of any subdivision of a district, upon any appeal from any judgment, decree or order made under the said Act X of 1859,[a] or the said Act VI of 1862,[b] by any officer within such subdivision, shall be as valid and binding as if such judgment, decree or order of such Deputy Collector had been made by the Collector of the district within which such subdivision is situate:

Prior orders by Deputy Collectors in charge of subdivisions on certain appeals confirmed.

4. Provided always that in case any appeal upon which a judgment, decree or order may have been passed or made by any Deputy Collector shall, before the passing of this Act, have been re-heard by a Collector, the judgment, decree or order of such Deputy Collector upon such appeal shall not become valid or binding under or by virtue of anything hereinbefore contained.

Proviso when appeals re-heard by Collector.

5. From and after the passing of this Act it shall be competent to the Lieutenant-Governor of Bengal specially to appoint any fully qualified Revenue-officer to exercise the powers of the Collector of a district for the purpose of enabling him to hear and determine appeals under the said recited Acts, and such persons so specially appointed shall have and exercise all such and the same powers in regard to the hearing of such appeals as the Collector of the district, within which such person shall be so appointed, might have and exercise.

Appellate jurisdiction exercisable by officers specially appointed by Lieutenant-Governor.

ACT No. V OF 1867.[c]

Received the Lieutenant-Governor's assent on the 23rd May, 1867, and the Governor General's assent on the 30th idem.

An Act for shortening the language used in Acts passed by the Lieutenant-Governor of Bengal in Council.

WHEREAS certain provisions are commonly inserted in Acts passed by the Lieutenant-Governor of Bengal in Council for the interpretation of such Acts,

Preamble.

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[a] See Vol. I, p. 343. [b] See *supra*, p. 3.

[c] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2; also in the Districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan, under s. 3 of the Scheduled Districts Act, 1874—see Vol. I, p. 676.

and it is expedient to avoid the frequent repetition of such provisions; It is declared and enacted as follows:—

Interpretation of certain words in future Acts.

1. In all Acts passed after the commencement of this Act, and containing nothing expressly to the contrary:—

words importing the masculine gender shall be deemed and taken to include females, and

the singular to include the plural, and the plural the singular;

the word "Magistrate" shall include all persons exercising all or any of the powers of a Magistrate;

the word "person" shall include any incorporated company or incorporated association of persons;

the word "month" shall be taken to mean calendar month, unless words be added showing lunar month to be intended;

the word "land" shall include houses and buildings and corporeal hereditaments and tenements of any tenure, unless where there are words to exclude houses and buildings, or to restrict the meaning to tenements of some particular tenure; and

the words "oath", "swear" and "affidavit" shall include affirmation, declaration, affirming and declaring, in the case of persons by law allowed to declare or affirm, instead of swearing.

Repealed Acts not revived.

2. Wherever any Act shall, after the time fixed for the commencement of this Act, be passed repealing in whole or in part any former Act or Regulation, and such Act shall itself be repealed, such last repeal shall not revive the Act or Regulation or provisions before repealed, unless words be added reviving such Act, Regulation or provisions.

Repealed provisions to continue in force till substituted provisions come into operation.

3. Wherever any Act shall, after the time fixed for the commencement of this Act, be passed repealing in whole or in part any former Act, and substituting some provision or provisions instead of the provision or provisions so repealed, the provision or provisions so repealed shall remain in force until the substituted provision or provisions shall come into operation by force of the last-mentioned Act.

Provision for recovery of fines.

4. The provisions of sections 63, 64, 65, 66, 67, 68, 69 and 70 of the Indian Penal Code,[a] and of sections 386, 387 and 389 of the Code of Criminal Procedure, 1882,[b] shall apply to all fines which may be imposed under the authority of any Act hereafter to be passed. XLV of 1860. X of 1882.

Commencement of Act.

5. This Act shall commence and take effect upon the first day of June now next ensuing.

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[a] See General Acts, 1834—66, 2nd Ed., pp. 250, 251.

[b] See Act X of 1872, s. 2 and Sch. V; also Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

ACT No. X OF 1867.

Received the Lieutenant-Governor's assent on the 6th July, 1867, and the Governor General's assent on the 10th idem.

An Act to continue the existing settlement of the land-revenue in the districts of Cuttack, Pooree and Balasore, until the expiration of the year 1304 Amli.

WHEREAS the existing settlement of the land-revenue in the districts of Cuttack, Pooree and Balasore will expire with the present year 1274 Amli; and whereas it is expedient to continue the said settlement for a further period of thirty years; It is enacted as follows:— Preamble.

1. The existing settlement of the land-revenue of the districts of Cuttack, Pooree and Balasore, and all rights and interest recognized or defined thereby, shall continue in force until the expiration of the year 1304 Amli, subject to the following provisions. Existing settlement to continue in force.

2. If any recorded proprietor of an estate or any recorded shareholder in an estate held in common tenancy within the said districts, with respect to which an engagement for the payment of public revenue during the existing settlement may have been made, shall not be willing to continue such engagement to the expiration of the year 1304 Amli, he shall, on or before the first day of September, 1867, corresponding with the 18th Bhádra 1274 Amli, give notice to this effect in writing to the Collector of the district within which such estate as aforesaid may be situate. Proprietors may dissent.

On receipt of any such notice it shall be competent to the Collector to assume the direct management of such estate, or to let the same in farm.

3. The provisions of sections 3 and 5, Regulation VII of 1822,[a] shall apply to all estates so taken under direct management or let in farm by the Collector; and also to all estates which are now held under direct management or let in farm. Management of estates of dissenting proprietors.

4. All proprietors and shareholders of estates situate within the said districts, with regard to which notice shall not be given within the terms of section 2 of this Act are hereby declared to be liable to pay revenue in accordance with the terms of the existing settlement during the term of thirty years from the expiration of the Amli year 1274; and any arrears of such revenue shall be recoverable under the provisions of Act XI of 1859,[b] and of every other Act[c] for the time being in force for the recovery of arrears of revenue. Proprietors not giving notice to be responsible for revenue.

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[a] See Vol. I, pp. 182, 183. [b] See Vol. I, p. 380.
[c] See Ben. Acts III of 1862, *supra*, p. 1, VII of 1868, *infra*, p. 116, and VII of 1880, *infra*.

ACT No. III OF 1868.[a]

Received the Lieutenant-Governor's assent on the 2nd June, 1868, and the Governor General's assent on the 16th idem.

An Act to amend the law respecting appeals in cases under Regulation VII of 1822.[b]

Preamble.

WHEREAS it is expedient that the period for presenting appeals under section 29 of Regulation VII of 1822[c] should be assimilated to the period for bringing appeals in other cases pending before the revenue-authorities; It is enacted as follows:—

Limitation of appeals under section 29, Regulation VII, 1822.

1. No petition of appeal presented under the provisions of section 29 of Regulation VII of 1822[c] shall be received after the expiration of thirty days from the date of the decision against which such appeal is presented, unless sufficient cause shall be shown for the delay to the satisfaction of the authority to which such appeal is presented.

The days shall be reckoned from and exclusive of the day on which the decree was passed, and also exclusive of such time as may be requisite for obtaining a copy of the order appealed against.

2.—[*Commencement of Act.*] *Rep. by Act XII of 1873.*

ACT No. IV OF 1868.[d]

Received the Lieutenant-Governor's assent on the 8th June, 1868, and the Governor General's assent on the 24th idem.

An Act to amend the provisions of Act IX of 1847[e] (An Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Behar and Orissa).

Preamble.

WHEREAS it is expedient to amend the provisions of Act IX of 1847;[e] It is enacted and declared as follows:—

1.—[*Repeal of s. 7 of Act IX of 1847.*] *Rep. by Act XII of 1873.*

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[a] Ben. Act III of 1868 has been declared in force, under s. 3 of the Scheduled Districts Act, 1874, in the Districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see Vol. I, p. 677.

The Act has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. I of 1886, s. 2, in Assam Supplement.

[b] See Vol. I, p. 179. [c] See Vol I, p. 204.

[d] Ben. Act IV of 1868 has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2; also in the Districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan, under s. 3 of the Scheduled Districts Act, 1874—see Vol. I, p. 677.

The Act has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. I of 1886, s. 2, in Assam Supplement.

[e] See Vol. I, p 276.

2. It is hereby declared that when any islands shall, under the provisions of clause 3, section 4 of Regulation XI of 1825[a] of the Bengal Code, be at the disposal of Government, all lands gained by gradual accession to such island, whether from a recess of the river or of the sea, shall be considered an increment to such island, and shall be equally at the disposal of Government.

Accessions to island considered increment thereto.

3. Whenever it shall appear to the local revenue-authorities that an island has been thrown up in a large and navigable river liable to be taken possession of by Government under clause 3, section 4 of Regulation XI of 1825[a] of the Bengal Code, the local revenue-authorities shall take immediate possession of the same for Government, and shall assess and settle the land according to the rules in force in that behalf, reporting their proceedings forthwith for the approval of the Board of Revenue, whose order thereupon, in regard to the assessment, shall be final:

Newly thrown up islands to be assessed.

Provided, however, that any party aggrieved by the act of the revenue-authorities in taking possession of any island as aforesaid shall be at liberty to contest the same by a regular suit in the Civil Court.

4. Any island of which possession may have been taken by the local revenue-authorities on behalf of the Government under section 3 of this Act shall not be deemed to have become an accession to the property of any person by reason of such channel becoming fordable after possession of such island shall have been so taken.

Subsequent junction to mainland not to affect Government right.

5. Whenever an island, of which possession shall have been taken by Government under section 3 of this Act, shall become attached to the mainland, any person having an estate or interest in any part of the riparian mainland to which such island may become attached while it is in the possession of the Government may apply to the Collector to take measures for the construction of ways, paths and roads on the island: the costs thereof to be equally divided between the applicant and the Government.

Power to apply for ways across islands.

6. Thereupon the Collector may require the applicant to make such deposit of money as to the Collector shall seem sufficient, and, on such deposit being made, the Collector shall proceed to lay out and construct such ways, paths and roads in and through the island as he may deem necessary for securing access to the river or sea from the land to which the island may have become attached.

Applicant for ways to deposit money, and ways to be made.

7. In every case the applicant shall be liable to pay and make good to the Government one half of the costs of laying out and constructing such ways, paths and roads as aforesaid, and any moneys due from the applicant under

Costs of ways how borne.

[a] See Vol. I, p. 229.

the provisions of this section may be deducted and retained by the Collector out of the deposit so made by the applicant as aforesaid.

Ways to be public.

8. Every way, road and path, which shall be laid out or appointed under the provisions aforesaid, shall be deemed a public highway.

ACT No. VII OF 1868.[a]

Received the Lieutenant-Governor's assent on the 16th July, 1868, and the Governor General's assent on the 10th August, 1868.

An Act to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue.

Preamble.

WHEREAS it is expedient to amend and extend the law for the recovery of arrears of land-revenue and of public demands recoverable as arrears of land-revenue; It is declared and enacted as follows:—

Interpretation.

1. In this Act and in Act XI of 1859[b] (*to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency*), the words in this section mentioned shall have the meanings therein attributed to them respectively—

"Proprietor."

the word "proprietor" includes any tenant by whom any estate or tenure is held directly under Government:

"Revenue."

the word "revenue" includes every sum annually payable to Government by the proprietor of any estate or tenure in respect thereof, and every sum payable to Government in respect of taḳḳáví, or of any money advanced by Government to proprietors of land for making or repairing embankments, reservoirs or watercourses, or other improvements on the land held by them:

"Estate."

the word "estate" means any land or share in land subject to the payment to Government of an annual sum in respect of which the name of a proprietor is entered on the register known as the general register of all revenue-paying estates, or in respect of which a separate account may, in pursuance of section 10 or section 11 of the said Act XI of 1859,[b] have been opened:

"Tenure."

the word "tenure" includes all interests in land, whether rent-paying or

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[a] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2. It has been extended to the Darjeeling District, the Western Dwárs, the Districts of Hazáribágh, Lohárdugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan, under s. 5 of the Scheduled Districts Act, 1874—see Vol. I, pp. 643 and 677.

The Act has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. I of 1886, s. 2, in Assam Supplement.

Ben. Act IV of 1875 is (in Bengal) to be read with and taken as part of this Act; and the Public Demands Recovery Act, 1880, so far as is consistent with the tenor thereof, is (in Bengal and in those parts of Assam in which that Act may be in force) to be construed as one with this Act—see Ben. Act IV of 1875, s. 4, and Ben. Act VII of 1880, s. 2, *infra*.

[b] For Act XI of 1859, see Vol. I, p. 380.

lákhiráj (other than estates as above defined), and all fisheries, which, by the terms of the grants creating the same or by the custom of the country, are transferable, whether such tenures are resumable or not, and whether the right of selling or bringing them to sale for an arrear of rent may or may not have been especially reserved by stipulation in any instrument:

the "jurisdiction" of a Collector means the district to which such Collector is appointed, or throughout which any officer vested with the powers of a Collector is authorized to exercise such powers: "Jurisdiction."

the word "Collector" includes any person vested with the powers of a Collector.[a] "Collector."

2. It shall be lawful for the Commissioner of Revenue to receive an appeal against any sale made under this Act or the said Act XI of 1859,[a b] so that such appeal be preferred to such Commissioner on or before the sixtieth day from the day of sale, reckoning as in section 23 of the said Act XI of 1859,[b] or be presented to the Collector or other officer duly authorized to hold sales under the said Act for transmission to the Commissioner on or before the forty-fifth day from the day of sale, reckoning as aforesaid, and not otherwise; and the Commissioner shall be competent, in every case of appeal so preferred, to annul any sale of an estate or share of an estate made under this Act or Act XI of 1859[b] which shall appear to him not to have been conducted according to the provisions of the said Acts, awarding at the same time to the purchaser a payment from the proprietor of compensation for his loss, if the sale shall have been occasioned by neglect of the proprietor, such compensation not to exceed the interest at the highest rate of the current Government securities on the amount of deposit or balance of purchase-money during the period of its being retained in the Collector's office: and the order of the Commissioner shall in such cases be final. Appeals against sales.

3. From the date when this Act comes into operation the word "thirty" shall be substituted for the word "fifteen" in section 6 of the said Act XI of 1859,[b] and the words "or more than thirty" in the same section shall be omitted therefrom, and the said section shall be read as if the same had not been inserted therein. Time for revenue-sales extended.

4. From the date when this Act comes into operation the words "sixtieth" and "sixty" shall be substituted for the words "thirtieth" and "thirty" respectively, wherever the said words occur in section 27 of the said Act XI of 1859.[b] Time for confirmation of sales extended.

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[a] Certain words of ss. 1 and 2, repealed in Bengal by Ben. Act VII of 1880, have here been omitted.

[b] For Act XI of 1859, see Vol. I, p. 380.

Mode of serving notices.

5. Every notice in and by this Act, or by the said Act XI of 1859, directed to be served, shall be served by delivering to the person to whom it may be directed a copy thereof attested by the Collector, or by delivering such copy at the usual place of abode of such person to some adult male member of his family, or, in case it cannot be so served, by posting such copy upon some conspicuous part of the usual or last-known place of abode of such person.

In case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such way as the Collector issuing such notice may direct.

Power to cause notices to be served of arrears or demands.

6. It shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the Calcutta Gazette, to empower all Collectors in any district in such order mentioned, if they shall think fit, to cause such notices as shall be in such order specified to be served upon any proprietors[b] before proceeding under the provisions of the said Act XI of 1859,[a] or of this Act, to realize from such proprietors[b] any arrears of revenue[b] which may be due from such proprietors,[b] and the costs of serving any such notices as shall be served under the powers conferred by any such order, not exceeding such sums as shall in such order be specified, shall be added to any arrears of revenue[b] which may be due from such proprietors[b] and shall be recoverable as if the same were a portion of such arrears of revenue,[b] and every such order may from time to time be altered, varied or revoked by any other order of the said Lieutenant-Governor to be from time to time in like manner published.

Notices to raiyats to be posted in subdivisional kachahri.

7. In addition to the notices in and by section 7 of the said Act XI of 1859[a] directed to be posted, a similar notice shall be posted at the subdivisional kachahri within the jurisdiction of which the estate to which such notice refers, or some portion thereof, is situate.

Certificate to be conclusive evidence of regularity in service of notices.

8. Every certificate of title which may be given to any purchaser under the provisions of section 28 of the said Act XI of 1859,[a] or of section 11 of this Act, shall be conclusive evidence in favour of such purchaser, and of every person claiming under him, that all notices in or by this Act, or by the said Act XI of 1859,[a] required to be served or posted, have been duly served and posted; and the title of any person who may have obtained any such certificate shall not be impeached or affected by reason of any omission, informality or irregularity as regards the serving or posting of any notice in the proceedings under which the sale was had at which such person may have purchased.

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[a] For Act XI of 1859, see Vol. I, p. 380.

[b] Certain words of s. 6, repealed in Bengal by Ben. Act VII of 1880, have here been omitted.

9. All sales of lands of lákhiráj tenure which may heretofore have been made in conformity with the procedure established by the said Act XI of 1859,[a] for payment of arrears of revenue or of demands, shall have such and the same force and effect as if they had been made in execution of a decree against the person liable to pay the revenue or demand for satisfaction of which such sale may have been made. Sales of lákhiráj valid.

10. Every estate shall, for the purposes of this Act and of the said Act XI of 1859,[a] be deemed to be within the collectorate of the Collector upon whose general register the revenue thereof may be borne, although the whole or any portion of the lands comprised in such estate may be without the local limits of his jurisdiction; but all lands and tenures shall be deemed to be within the jurisdiction, within the local limits of which they may be situate, although the estate of which they form a part may, under the provisions of this section, be deemed to be within the collectorate of any other Collector. Collectorate to include all estates borne on its roll.

11.[b] Whenever any revenue payable to Government in respect of any tenure not being an estate shall be in arrear after the latest day of payment fixed in the manner prescribed in section 3 of Act XI of 1859,[a] the Collector to whom such revenue is payable may cause the tenure to be sold in the manner and subject to the provisions in and by the said Act XI of 1859[a] provided for the sale of estates for the recovery of arrears of revenue, and the Collector shall apply the purchase-money arising from such sale according to the provisions of section 31 of the said Act XI of 1859,[a] except that the residue, if any, shall be held in deposit on account of the holder of the tenure and not on account of the proprietor of the estate; and every such Collector shall, upon every such sale of any tenure being final and conclusive, give to the purchaser thereof such certificate of title thereof as is provided in section 28 of the said Act XI of 1859[a] with respect to estates: Power to sell tenures.

Provided that no tenure shall be sold for the recovery of arrears of revenue other than those of the current year or of the year immediately preceding, nor for the recovery of arrears of revenue due by tenures under attachment by order of any judicial authority, unless and until after a notification in the language of the district, specifying the nature and amount of the arrear and the latest date on which payment thereof shall be received, shall have been fixed, for a period of not less than fifteen clear days preceding the date fixed for payment according to section 3 of Act XI of 1859,[a] in the office of the Collector or other officer duly authorized to hold sales under this Act, in the

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[a] For Act XI of 1859, see Vol. I, p. 380.

[b] This section has been substituted for the original s. 11 by Ben. Act II of 1871 - see *infra*, p. 170.

Court of the Judge within whose jurisdiction the land advertised lies, and in the Munsif's Court and police-thánâ of the division in which the tenure to which the notification relates is situated, or, if the tenure be situated within the jurisdiction of more than one Munsif's Court or police-thánâ, in some one or more of such Courts or thánás, and also at the kachahri of the málguzár or owner of the tenure, or at some conspicuous place upon the tenure, the same to be certified by the peon or other person employed for the purpose.

Effect of sale of tenure.

12. The purchaser of any tenure sold under the provisions of section 11 of this Act shall acquire it free from all encumbrances which may have been imposed upon it after its creation, or after the time of settlement, whichever may have last occurred, and shall be entitled to avoid and annul all under-tenures, and forthwith to eject all under-tenants, with the following exceptions:—

First.—Istimrári or mukarrari tenures which have been held at a fixed rent from the time of the permanent settlement:

Secondly.—Tenures existing at the time of permanent settlement, which have not been held at a fixed rent:

Provided always that the rent of such tenures shall be liable to enhancement under any law for the time being in force for the enhancement of the rent of such tenures:

Thirdly.—Tenures created or recognized by the settlement-proceedings of any current temporary settlement, as tenures bearing a rent which is fixed for the period of such settlement:

Fourthly.—Tenures of lands whereon dwelling-houses, manufactories or other permanent buildings have been erected, or whereon permanent gardens, plantations, tanks, canals, places of worship or burning or burying grounds have been made.

Power of enhancement.

13. Every purchaser of a tenure under section 11 of this Act shall be entitled to proceed in the manner prescribed by any law for the time being in force for the enhancement of the rent of any land coming within the fourth class of exceptions above made, if he can prove the same to have been held at what was originally an unfair rent, unless the same shall have been held for a term exceeding twelve years at a fixed rent equal to the rent of good arable land:

Saving of right of raiyat.

14. Provided always that nothing hereinbefore contained shall be construed to entitle any such purchaser, under section 11 of this Act, to eject any raiyat having a right of occupancy at a fixed rent, or at a rent assessable according to fixed rules under the laws in force, or to enhance the rent of any such raiyat otherwise than in the manner prescribed by such laws, or otherwise than as

the former proprietor, irrespectively of all engagements made since the time of settlement, may have been entitled to do.

15-28.—[*Certificates*[a] *of unliquidated arrears executable as decree of Civil Court; notice of certificate; objections to certificate; enforcement of certificate; register of certificates; inspection of register; entry of satisfaction; transmission of sums received.*] *Rep. in Bengal by Ben. Act VII of 1880.*

29.—[*Repeal of enactments.*] *Rep. by Act XII of 1873.*

30. This Act shall be read with, and taken as part of, the said Act XI of 1859,[b] as modified by Act III of 1862[c] of the Lieutenant-Governor of Bengal in Council. Construction

SCHEDULE A (*referred to in sections 15, 16, 18 and 19*).
[*Omitted, as ss. 15, 16, 18 and 19 have been repealed in Bengal.*]

SCHEDULE B (*referred to in section 19*).
[*Omitted, as s. 19 has been repealed in Bengal.*]

SCHEDULE C (*referred to in section 21*).
[*Omitted, as s. 21 has been repealed in Bengal.*]

SCHEDULE D (*referred to in section 22*).
[*Omitted, as s. 22 has been repealed in Bengal.*]

SCHEDULE E (*referred to in section 29*).
[*Rep. by Act XII of 1873.*]

ACT No. I OF 1869[d]

Received the Lieutenant-Governor's assent on the 28th January, 1869, and the Governor General's assent on the 1st March, 1869.

An Act for the prevention of cruelty to animals.

WHEREAS it is expedient to make provision for the prevention of cruelty to animals; It is enacted as follows:— Preamble.

1. The word "animal" shall be taken to mean any domestic or tamed quadruped, or any domestic or tamed bird. Interpretation of "animal".

[a] Certificates made under the provisions of this Act which have been repealed by Ben. Act VII of 1880 may be enforced under the provisions of the latter Act—see Ben. Act VII of 1880, s. 3, *infra*.

[b] See Vol. I, p. 380.

[c] See *supra*, p. 1.

[d] This Act has been declared in force in Assam under s. 3 of the Scheduled Districts Act, 1874—see Appendix to Assam Supplement.

For power of police officer to arrest without warrant any person committing in his view any offence against this Act, see Ben. Act III of 1869, s. 1, *infra*, p. 128.

Penalty on cruelty to animals.

2. Every person who shall cruelly and wantonly beat, ill-treat, abuse, torture, overdrive or overload, or cause to be beaten, ill-treated, abused, tortured, overdriven or overladen, any animal, shall be liable to a fine which may extend to one hundred rupees.

On baiting animals, or inciting them to fight.

3. Every person who shall incite any quadrupeds or birds, whether domestic or wild, to fight, or shall bait any animal, or shall aid or shall abet any one in so doing, shall be liable to a fine which may extend to fifty rupees.

On permitting diseased animals to go at large or die in public places.

4. Every person who shall wilfully and knowingly permit any animal, of which he may be owner, to go at large in any public street, road or thoroughfare, while such animal is affected with contagious or infectious disease, or shall wilfully permit any diseased or disabled animal, of which he may be owner, to die in any public street, road or thoroughfare, shall be liable to a fine which may extend to one hundred rupees.

On employing animal unfit for labour.

5. Every person who shall employ or cause to be employed in any work or labour any animal which, in consequence of any disease, infirmity, wounds or sores, is unfit to be so employed, shall be liable to a fine which may extend to fifty rupees.

Trial of offences in Calcutta.

6. All complaints of offences against the provisions of this Act, alleged to have been committed in the town of Calcutta, shall be heard and determined in a summary way by some Police Magistrate[a] of Calcutta.

Trial of offences out of Calcutta.

7. Every charge of an offence against the provisions of this Act, alleged to have been committed out of Calcutta, may be heard and determined by any officer authorized to exercise any of the powers of a Magistrate in the place in which such offence may be alleged to have been committed, and the provisions of the Code of Criminal Procedure, 1882,[b] shall apply to the trial of every such charge. X of 1882

8.—[*Repeal of enactments.*] *Rep. by Act XII of 1873.*

Limit of Act.

9. This Act shall extend to the town of Calcutta, and to the suburbs of the town of Calcutta as defined by any notification under section 1 of the said Act II of 1866.[c]

Power to extend Act.

10. It shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the Calcutta Gazette, to extend this Act to any city, town, station, bázár, cantonment, village, district or portion of a district,[d] to be mentioned and defined in such order; and from time to time, by any order published as aforesaid, to revoke, vary, amend or alter any such order.

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[a] Now Presidency Magistrate—see Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.
[b] See Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.
[c] See ante, p. 46.
[d] For list of places to which this Act has been extended, see Appendix.

ACT No. II OF 1869.[a]

Received the Lieutenant-Governor's assent on the 28th January, 1869, and the Governor General's assent on the 9th March, 1869.

An Act to ascertain, regulate and record certain tenures in Chota Nagpore.

Preamble.

WHEREAS from a very early time certain tenures have existed in Chota Nagpore, known as bhúinhári, held by persons claiming to be descendants of the original founders of the villages in which such lands are situated, or their assigns; and also certain similar tenures known as bhút-khetá, dáli-kátári and páhnái, consisting of lands set apart for the duties which the village "páhan," or priest, is required to perform, and for his maintenance, and also other similar tenures known as "mahtoai," consisting of lands allotted to the village mahto, or collector of rents; and whereas, where the above tenures are found, there are also lands known as majhahas, reserved for the use of the respective proprietors of the villages, and at their absolute disposal, and also lands known as bhet-khetá, ordinarily assigned as remuneration to the villagers who work for the proprietor or his assigns on the majhahas land; and whereas disputes have arisen rendering it desirable that these tenures should be defined and recorded, and a register made of all rights, privileges, immunities and liabilities affecting the holders thereof; It is enacted as follows:—

Construction.

1. In the construction of this Act the words and expressions following shall have the meanings hereinafter in this section attributed to them respectively, unless a contrary sense be apparent from the context:—

"Bhúinhári."

the word "bhúinhári" shall include the tenures mentioned in the preamble as bhút-khetá, dáli-kátári, páhnái and mahtoai:

"Majhahas."

the word "majhahas" shall include the tenure mentioned in the preamble as bhet-khetá:

"The Special Commissioner."

the words "the Special Commissioner" shall be taken to mean a Commissioner to be appointed for the purposes of this Act.

Power to appoint Commissioners.

2. It shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the Calcutta Gazette, to appoint one or more persons, as may be judged expedient, to be a Commissioner or Commissioners for the purposes of this Act, and by an order, also published in the Calcutta Gazette, to define the limits within which each Special Commissioner so to be appointed shall exercise jurisdiction under this Act; and from time to time, in like manner, to vary or revoke any order made by the said Lieutenant-Governor under the

Limits of jurisdiction.

[a] The powers conferred on a Special Commissioner or on the Commissioner of the Chota Nagpore Division by this Act are not affected by the Chota Nagpore Encumbered Estates Act, 1876—see Act VI of 1876, s. 24, in Vol. I, p. 430.

provisions of this Act, and to appoint some other person or persons to be Commissioners for the purposes of this Act.

Duties of Special Commissioner.

3. Each Special Commissioner so appointed shall, with all convenient speed, investigate and ascertain the titles and tenures of all lands within the limits so assigned to him, which may be alleged by any person to be held upon bhúinhári and majhahas tenures respectively, and shall demarcate the same.

Powers of Special Commissioner.

4. In making such investigation the Special Commissioner, in addition to all powers conferred on him by this Act, shall, as far as may be necessary for the purposes of this Act, exercise all such and the same powers as are conferred by Regulation VII of 1822,[a] and the Regulations and Acts amending the same, upon a Collector making a settlement of land-revenue.

Contents of record.

5. The Special Commissioner shall make an accurate register, in such form as may from time to time be ordered by the Lieutenant-Governor of Bengal, of the lands which he may ascertain to belong to the bhúinhári and majhahas classes respectively; of the conditions to be fulfilled, and the rents and services to be rendered in respect of the several lands of those classes which he may ascertain to be held subject to any conditions, rents or services; and of the rights and privileges to be enjoyed in respect of any such lands.

Power to restore persons wrongfully dispossessed.

6. In case it shall be proved to the Special Commissioner that any person, who within twenty years next before the passing of this Act held any lands of bhúinhári or majhahas tenure, has been wrongfully dispossessed of such lands, the Special Commissioner shall cause such person, or, in case of his being dead, the heir of such person, to be put in possession of such lands, and shall cause the name of the person so put in possession to be entered in the register as the occupant of the said lands on any bhúinhári or majhahas tenure, as the case may be.

Presumption as to services to be rendered.

7. It shall be presumed that all lands which may be found under the provisions of this Act to be of bhúinhári or majhahas tenure respectively are rightly subject to the conditions, rents and services upon which such lands respectively are found to be held at the time of the inquiry made by the Special Commissioner, unless it be proved that at some former time, within twenty years before the passing of this Act, such lands were held subject to and upon other and different conditions, rents and services; in which case it shall be presumed that such lands are rightly subject to the conditions, rents and services subject to which they shall be proved to have been held at the earliest period within the said term of twenty years with respect to which such proof shall have been given.

Lands not to

8. No lands shall be registered as lands of bhúinhári or of majhahas tenure

[a] See Vol. I, p. 179.

if it be proved that the occupation of such lands upon such tenure commenced within the term of twenty years before the passing of this Act, unless it be proved that such occupation was in pursuance or revival of an occupation upon such tenure rightfully enjoyed before the commencement of such term.

be registered if tenure commenced within twenty years.

9. Whenever any lands of bhúinhári tenure are held subject to any conditions or services other than or besides the payment of a rent in money, it shall be lawful for the bhúinhári tenant of such lands, or for any person who may have the immediate right of receiving the rents and services issuing from such lands (provided such last-mentioned person has such right in perpetuity), or if there be no such person other than the zamindar then for the zamindár, to apply in writing to the Special Commissioner for the commutation of all such conditions and services other than or besides the payment of a rent in money.

Power to apply for commutation of services.

10. On receipt of any such application, the Special Commissioner shall cause to be served upon each of the persons who under the provisions of section 9 would have a right to make such application, a notice in writing requiring such person, within ten days from the day of the service of such notice, to nominate, by notice in writing to the Special Commissioner, some person to act as assessor to the Special Commissioner in fixing the amount of rent which shall be payable in commutation for such conditions and services, and to be present before the Special Commissioner, and to cause such assessor to be there present upon some day to be named in such notice and not to be less than fifteen days from the day of the service of such notice.

On such application, notice to appoint assessors to be served.

11. Upon the day which shall have been appointed by the Special Commissioner for the attendance of the parties and assessors as hereinbefore is provided, the Special Commissioner shall, with the assistance of any assessors who may have been, within the time hereinbefore respectively in that behalf mentioned, duly nominated as aforesaid, and who may be present; and, if there be no such assessors, then without such assistance proceed to consider and determine the amount of rent fairly and equitably to be payable in commutation of the conditions and services other than rent to which such tenure may be subject.

Special Commissioner to hear application with assessors.

12. The opinion of each assessor shall be given orally, and shall be recorded in writing by the Special Commissioner, but the decision is vested exclusively in the Special Commissioner.

Decision to be by Special Commissioner.

13. In case any review of any decision under section 12 may be ordered, such review shall be heard and determined by the Special Commissioner without the assistance of assessors; and in case, in consequence of any order on appeal, a further inquiry into the subject-matter of any such decision may be necessary, such further inquiry may, if he shall so think fit, be heard and determined by the Special Commissioner without the assistance of assessors.

Review of decision by Special Commissioner alone.

Power of appeal.

14. Any person who may be aggrieved by any decision or order of the Special Commissioner made under this Act may appeal to the Commissioner of the division against such decision or order by a petition; but no such petition shall be received after the expiration of three months from the date of such decision or order, unless sufficient cause for the delay be shown to the satisfaction of the said Commissioner of the division, who shall have power to hear and determine the matter of every such petition of appeal.

Power to apply for review of judgment.

15. Any person considering himself aggrieved by any order or decision of the Special Commissioner from which no appeal shall have been preferred, or by any order of the Commissioner of the division in appeal, may apply for a review of judgment by the officer by whom such order or decision was made.

Application within a month.

16. Such application may be made within one month from the date of the order or decision, and not afterwards.

Power to grant or refuse review.

17. If the Special Commissioner or the Commissioner of the division, as the case may be, shall be of opinion that there are not any sufficient grounds for a review, he shall reject the application; but if he shall be of opinion that the review desired is necessary to correct an evident error or omission, or is otherwise requisite for the ends of justice, the Special Commissioner or the Commissioner of the division, as the case may be, shall grant the review, and his order in either case, whether for rejecting the application or granting the review, shall be final.

Review not to be granted without notice.

18. No review of an order or decision shall be granted until notice shall have been given to every person who had appeared in the proceedings in which such order or decision was made, and whose interest would be injuriously affected by the review desired.

On grant of application for review, re-hearing to be directed.

19. When an application for a review of judgment is granted, such order shall be made for re-hearing the matter in respect of which such order or decision shall have been made as may seem proper.

Decision to be final.

20. No decision or order of the Special Commissioner shall be in any way altered, varied or reversed, save on review by the Special Commissioner under sections 15, 16, 17, 18 and 19 of this Act, or by appeal to the Commissioner of the division under section 14 of this Act; and no suit shall be received in any Court to vary or set aside any such order or decision of the Special Commissioner, or any decision or order upon appeal or upon review by the Commissioner of the division, made under the provisions of this Act; and every such decision or order upon appeal by the Commissioner of the division shall be final, unless it be altered, varied or reversed by the said Commissioner on review under sections 15, 16, 17, 18 and 19 of this Act.

21. No mukhtár nor vakil shall, without the consent of the Special Commissioner, be heard in any proceeding before such Special Commissioner. No mukhtár nor vakil to be heard.

22.—[*Exemption of petitions under Act from stamp-duty.*] *Rep. by Act VII of 1870.*

23. It shall be lawful for the said Lieutenant-Governor from time to time to make such rules and orders as to him may seem fit for regulating the practice and procedure to be followed in making the inquiries, investigations, demarcations and registers required by this Act, and all reviews thereof and appeals therefrom; and such rules and orders, when published in the Calcutta Gazette, shall have the same force and effect as if the same were a portion of this Act. Lieutenant-Governor may make rules.

24. No judgment, decree or order in any suit instituted after the passing of this Act shall be evidence in any inquiry before the Special Commissioner respecting the tenure upon which any land is held, or the rents, services or conditions to which any land is subject. Effect of judgment in suits commenced after Act passed.

25. The register of each village, prepared under the provisions of section 5 of this Act, shall, when finally revised and corrected in accordance with any decisions and orders of the Special Commissioner and the Commissioner of the division, under this Act, be confirmed by the Commissioner of the division, and such confirmation shall be published forthwith in the Calcutta Gazette. Register to be confirmed and published.

26. Every register to be prepared under this Act, after publication of the confirmation thereof in pursuance of the section next preceding, shall be conclusive evidence of all matters recorded in such register in pursuance of this Act; and, from and after such publication of the confirmation of the register relating to any village, no evidence shall be received that any lands in such village not mentioned in such register are of bhúinhári or of majhahas tenure. Register to be conclusive evidence of matters recorded therein.

27. This Act shall be called the Chota Nagpore Tenures Act, 1869. Short title.

ACT No. III OF 1869.*

Received the Lieutenant-Governor's assent on the 29th July, 1869, and the Governor General's assent on the 13th August, 1869.

An Act to enable Police-officers to arrest without warrant persons guilty of cruelty to animals.

WHEREAS it is expedient to enable police-officers in certain places to arrest without warrant any person committing, within their view, any offence against Preamble.

* This Act has been declared in force in Assam under s. 3 of the Scheduled Districts Act, 1874 —see Appendix to Assam Supplement.

Act I of 1869[a] passed by the Lieutenant-Governor of Bengal in Council, entitled an Act for the prevention of cruelty to animals; It is enacted as follows:—

Arrest of person guilty of cruelty.

1. Every police-officer may arrest without a warrant any person committing, in his view, any offence against the said Act I of 1869.[a]

Act to apply to Calcutta and suburbs.

2. This Act shall apply to the town of Calcutta, as defined in Act IV of 1866[b] passed by the Lieutenant-Governor of Bengal in Council, and in the suburbs of the town of Calcutta, as the same may from time to time be defined by any notification to be from time to time published by the said Lieutenant-Governor, in pursuance of the provisions of Act II of 1866,[c] and save as hereinafter is provided to such town and suburbs only.

Power to extend Act

3. It shall be lawful for the Lieutenant-Governor of Bengal, by a notification to be published in the Calcutta Gazette, to extend this Act to any town, suburb, district or tract of country,[d] to be mentioned and defined in such notification; and, from and after the publication of such notification, this Act shall extend and apply to the town, suburb, district or tract of country therein mentioned and defined.

ACT No. V OF 1869.[e]

Received the Lieutenant-Governor's assent on the 12th August, 1869, and the Governor General's assent on the 26th idem.

An Act to empower the Lieutenant-Governor of Bengal to direct Courts of Session to be held in different towns in a District.

Preamble.

WHEREAS doubts have arisen whether cases committed for trial to any Court of Session can be legally tried by such Court at any place other than the usual place of sitting of the Court of Session or the head-quarters of the Magistrate of a district;

And whereas it is expedient that such doubts should be removed, and that provision should be made for the various Courts of Session sitting at places other than their usual places of sitting, or the head-quarters of Magistrates of districts;

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[a] See *supra*, p. 121.
[b] See Ben. Act IV of 1866, s. 3, *supra*, p. 61.
[c] See foot note to Ben. Act II of 1866, s. 1, *supra*, p. 46.
[d] For list of places to which Ben. Act III of 1869 has been extended, see Appendix.
[e] This Act has been declared in force, under s. 3 of the Scheduled Districts Act, 1874, in the Distr[illegible] of Hazáribágh, Lohárdugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see Vol. I, p. 677; also in the Districts of Sylhet, Kámrúp, Nowgong, Darrang, Sibságar, Lakhimpur, Goálpára (excluding the Eastern Dwárs) and Cachar (excluding the North Cachar Hills)—Appendix to Assam Supplement.

It is enacted and declared as follows :—

All trials which may have heretofore been held, or may hereafter be held, before any Court of Session at any place which may have been, or which shall be, appointed by the Lieutenant-Governor and approved by the High Court as a place for holding such Court of Session, shall, if such place be within the district of the Judge of such Court of Session, although it be not the usual place of sitting of such Court, nor the head-quarters of the Magistrate of a district, be as good and valid in law as if the place at which they had been held had been the usual place of sitting of the Court of Session or the head-quarters of the Magistrate of a district.[a]

Trials may be held in any place in district.

ACT No. VII OF 1869.[b]

Received the Lieutenant-Governor's assent on the 26th August, 1869, and the Governor General's assent on the 18th September, 1869.

An Act to amend the constitution of the Police-force in Bengal.

Whereas it is expedient that the entire police-establishment in the provinces under the control of the Lieutenant-Governor of Bengal should cease to be one police-force, and that the said provinces should cease to be one general police-district under one Inspector-General; It is enacted as follows :—

Preamble.

1. Section 2 of Act V of 1861[c] is repealed, so far as it relates to the provinces under the control of the Lieutenant-Governor of Bengal.

Repeal of section 2, Act V of 1861.

2. It shall be lawful for the Lieutenant-Governor of Bengal, from time to time, to divide the said provinces into as many general police-districts as he may think fit: and from time to time to vary and alter any of such general police-districts, or to consolidate two or more of such general police-districts into one district, as he may think fit.

Power to divide the provinces into Police-districts.

3. It shall be lawful for the said Lieutenant-Governor in each such general police-district to appoint some person to exercise in such district the powers of an Inspector-General of Police, whether such person shall or shall not hold any other office under the said Lieutenant-Governor; and the administration of the police throughout such general police-district, and all powers and authorities by the said Act V of 1861[c] or any other Act conferred on an Inspector-General of Police, shall be vested in such person.

Power to appoint in districts persons to execute duties of Inspector-General.

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[a] Now District Magistrate—see Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

[b] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2; also, in the Districts of Hazáribágh, Lohárdugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan, under s. 3 of the Scheduled Districts Act, 1874—see Vol. I, p. 677.

[c] For Act V of 1861, see General Acts, 1834—66, 2nd Ed., p. 363.

Police-establishment in each district to be considered one police-force.

4. The entire police-establishment in every such district shall, for the purposes of the said Act V of 1861,[a] be deemed to be one police-force, and shall be formally enrolled, and shall consist of such number of officers and men, and shall be constituted in such manner, and the members of such force shall receive such pay, as shall from time to time be ordered by the said Lieutenant-Governor, subject to the sanction of the Governor General of India in Council.

Power to employ police out of district.

5. It shall be lawful for the Lieutenant-Governor to employ members of the police-force who have been enrolled in, or appointed to, any one general police-district, in any other general police-district within the provinces subject to his control; and the powers conferred on police-officers by the Code of Criminal Procedure, 1882,[b] may be by them exercised in any portion of the said provinces without reference to the local limits of the general police-district to which they may respectively belong. X of 1882

Construction.

6. This Act shall be read and taken, in the provinces under the control of the Lieutenant-Governor of Bengal, as part of the said Act V of 1861.[a]

ACT No. V OF 1870.[c]

Received the Lieutenant-Governor's assent on the 11th June, 1870, and the Governor General's assent on the 12th August, 1870.

An Act to appoint Commissioners for making Improvements in the Port of Calcutta.

Preamble.

Whereas it is expedient to make further provision for improvements in the port of Calcutta, and for that purpose to appoint Commissioners for making such improvements; It is enacted as follows:—

Interpretation.

1. The following words and expressions shall have the meanings hereby assigned to them, unless where a contrary intention shall appear from the context:—

"The Commissioners."

the words "the Commissioners" shall mean "the Commissioners for making improvements in the port of Calcutta" hereinafter incorporated:

"Commissioner."

the word "Commissioner" shall mean a member of the said corporation:

"Vessel."

the word "vessel" shall include any ship, barge, boat, raft or craft, or any other thing whatever, designed or used for the transport upon water of passengers or goods:

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[a] See General Acts, 1834—66, 2nd Ed., p. 363.

[b] See Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

Ben. Acts VII of 1871, IV of 1880, II of 1885 and III of 1887 are to be read with and taken as part of this Act—see Ben. Act VII of 1871, s. 4, *infra*, p. 180; and Ben. Acts IV of 1880, s. 1, II of 1885, s. 1, and III of 1887, s. 2, *infra*.

As to the application of certain sections of this Act under the Howrah Bridge Act, 1871, see Ben. Act IX of 1871, s. 26, *infra*, p. 185.

the word "land" shall include the bed of the river below high-water mark : "Land."

the word "pier" shall include a floating pier : "Pier."

the word "wharf" shall include any bank of the river which may be improved to facilitate the loading or unloading of goods and any wall adjoining the river : "Wharf."

the word "goods" shall include wares and merchandize of every description : "Goods."

the word "port" shall mean the port of Calcutta. "Port."

2.—[*Power to nominate Commissioners.*] *Rep. by Ben. Act III of 1887.*

3. Every person who shall be [a]elected or[a] appointed to be a chairman, vice-chairman or Commissioner shall, subject to the provisions hereinafter contained, continue to hold the office to which he shall be [a]elected or[a] appointed for the term of two years, but may at the expiration of such term be [a]re-elected or[a] re-appointed. Term of office.

4.—[*Appointment of successors.*] *Rep. by Ben. Act III of 1887.*

5. The Commissioners for making improvements in the port of Calcutta to be [a]elected and[a] appointed,[b] and their successors, shall be and they are hereby created a corporation under the name and style of "the Commissioners for making improvements in the port of Calcutta," and they shall have a common seal. Commissioners to be a corporation.

6-10.—[*Property of Commissioners ; amount of debt ; repayment of principal ; payment of interest ; repayment before due date.*] *Rep. by Ben. Act IV of 1880.*

11. The administration of the powers and trusts created and declared by this Act shall, subject to the powers and authorities hereinafter conferred on the Lieutenant-Governor of Bengal, be vested in the Commissioners. Duties of Commissioners.

12. No act or proceeding of the Commissioners shall be invalidated or illegal in consequence only of there being a vacancy in the number of the Commissioners at the time of doing or executing such act or proceeding. Proceedings not invalidated by vacancy or informality of appointment.

And all proceedings of the Commissioners, or of any person acting as a Commissioner in the *bonâ fide* belief that he was duly [a]elected or[a] appointed, shall, notwithstanding it be afterwards discovered that there was some defect in the [a]election or[a] appointment of the Commissioner or person acting as aforesaid, be as valid as if every such person had been duly [a]elected or[a] appointed to be a Commissioner.

13. Every person who, at any time after his [a]election or [a]appointment as a Commissioner, shall be absent from six consecutive meetings without Disqualification of Commissioners.

[a-a] These words in ss. 3, 5, 12 and 13 have been inserted by Ben. Act III of 1887, s. 13—see Ben. Act III of 1887, s. 13, *infra*.

[b] Certain words of s. 5, repealed by Ben. Act III of 1887, s. 13, have here been omitted.

having the permission in that behalf of the Commissioners, or who having such permission shall be absent from the meetings for a period exceeding a year, and every person who at any time after his [a]election or[a] appointment as a Commissioner shall accept or agree to accept any office or place of profit under this Act, except the office of Chairman or Vice-chairman of the Commissioners, or who shall, save with the sanction in writing of the Lieutenant-Governor, participate or agree to participate in the profits of any work done by order of the Commissioners, or be concerned or participate in the profits of any contract entered into with the Commissioners, shall thenceforth cease to be a Commissioner, and his office shall thereupon become vacant :

Provided always that no Commissioner shall vacate his office by reason only of his being a shareholder in any company registered under the provisions of any Act for the registration of joint-stock companies, passed by any Indian legislature or by the Parliament of the United Kingdom, or incorporated by Act of Parliament, Royal Charter or otherwise, with which the Commissioners may enter into any contract, or by reason of his being interested in any loan of money to the Commissioners.

14.—[*Power to remove Chairman, Vice-chairman or Commissioner.*] *Rep. by Ben. Act III of 1887.*

Acting Commissioner may be appointed during absence of Commissioner.

15. When any Commissioner shall depart from Calcutta with an intention of being absent for a longer period than three months, or where any such member shall have been so absent for a period exceeding three months, it shall be lawful for the Lieutenant-Governor of Bengal to appoint some other person to act in the place and room of such absent Commissioner until he shall return to Calcutta, or until he shall cease to be a member.

Salaries and fees of Chairman, Vice-chairman and Commissioners.

16. It shall be lawful for the Lieutenant-Governor of Bengal, by order in writing from time to time, to determine whether any and what salary and allowances shall be paid to the Chairman or Vice-chairman of the Commissioners, and whether any and what fees shall be paid to the Chairman or Vice-chairman and Commissioners for attendance at meetings for transaction of the business of the trust : and, in the order directing the salaries and fees to be paid as aforesaid, the Lieutenant Governor of Bengal may declare any conditions and restrictions upon and under which such salary, allowances and fees shall be payable.

Commissioners may appoint committees.

17. The Commissioners may from time to time, by resolution passed at a meeting, appoint committees of their number for carrying into effect any part of the provisions of this Act, with such powers, and under such instructions,

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[a] These words in s. 13 have been inserted by Ben. Act III of 1887, s. 13—see Ben. Act III of 1887, s. 13 *infra.*

directions or limitations, as by such resolution shall be defined, and on any such committee three members shall be a quorum, and the Commissioners shall have power to alter or discontinue any such committee.

Establishment of Commissioners to be sanctioned by Lieutenant-Governor.

18. The Commissioners shall from time to time prepare and submit to the Lieutenant-Governor a schedule setting forth the number of officers and servants necessary and proper for carrying out the purposes of this Act, and of the salaries, fees and allowances which it is proposed to assign to such officers and servants, and the Lieutenant-Governor may sanction such schedule, or modify and sanction the same; and every such schedule so sanctioned shall remain in force until some other such schedule shall have been so prepared and sanctioned, and it shall not be lawful for the Commissioners to employ any officer or servant for any office or employment not sanctioned in and by the schedule for the time being in force, nor to pay or allow to any officers or servants any salaries, allowances or fees greater than, or beyond, those sanctioned in such schedule:

Provided always that artisans, porters and labourers, and the sardárs of porters and labourers, shall not be deemed to be officers or servants within the meaning of this section.

Commissioners to make rules for appointment of establishment.

19. It shall be lawful for the Commissioners at a meeting from time to time to make rules for appointing the officers and servants to fill the offices and posts mentioned in the schedule for the time being in force under the provisions of the next preceding section, and, subject to the provisions of such schedule, for their necessary remuneration, and for the suspension or removal of any of such persons and the appointment of others in their place, and for the payment of such allowances to the said persons respectively, or, in case of absence on leave, such portion of their salaries or allowances, as to them shall seem fit, and from time to time in like manner to alter, vary or revoke any such rules, and to substitute others in the place or stead thereof.

Penalty on officers being interested in contracts.

20. No officer or servant of the Commissioners shall be in anywise concerned or interested in any contract or work made with, or executed for, the Commissioners, and, if any such officer or servant be so concerned or interested, he shall be incapable of afterwards holding or continuing in any office or employment under the Commissioners, and shall forfeit and pay the sum of five hundred rupees, which may be recovered by suit by any person, with full costs of suit:

Provided that nothing in this section shall apply to any person by reason only of his being a shareholder in any company incorporated by Act of Parliament or by Royal Charter or otherwise, or registered under any Act for the registration of joint-stock companies, passed by the Parliament of the

United Kingdom or by any Indian legislature, which may enter into any contract with the Commissioners or execute any work for the Commissioners.

Penalty for accepting illegal gratification.

21. If any person employed under this Act, not being a public servant within the meaning of section 21 of the Indian Penal Code,[a] shall accept or obtain, or agree to accept or attempt to obtain, from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing or forbearing to do any official act, or for showing or forbearing to show in the exercise of his official functions favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person with the Commissioners, or with any public servant or with the Government as such, he shall be liable to the same punishment as is in that behalf provided for by the Indian Penal Code in the case of public servants. XLV of 1860

Leave of absence to Chairman or Vice-chairman.

22. It shall be lawful for the Commissioners at a meeting to grant, with the sanction of the Lieutenant-Governor of Bengal, such leave of absence to any salaried Chairman or salaried Vice-chairman of the Commissioners, and to make such arrangements for carrying on the duties of his office during his absence on leave, as shall to them seem proper.

Any person appointed under this section to act for any such chairman or vice-chairman shall, while so acting, have all the powers and be liable to all the restrictions and limitations which the Chairman or Vice-chairman would under this Act have and be liable to.

In any case in which leave of absence to any Chairman or Vice-chairman shall be granted as aforesaid, the Commissioners, at a meeting, may, with the sanction of the Lieutenant-Governor of Bengal, order to be allowed to such Chairman or Vice-chairman such portion of his salary during absence on leave as shall to them seem proper, and such allowance shall be paid accordingly unless and until the Commissioners at a meeting shall otherwise direct.

Expenditure not to be increased by leave-allowances.

23. Save with the sanction in writing of the Lieutenant-Governor, no greater expenditure shall be in any case incurred in the whole by reason of any allowance paid upon the absence on leave of the Chairman, Vice-chairman or any other officer or servant of the Commissioners than would have been incurred had no leave been granted.

Meetings of Commissioners.

24. The Commissioners shall meet for the transaction of business once at least in every fortnight.

Such meeting shall be held upon such day and at such hour as the Commissioners shall from time to time determine.

At every meeting of the Commissioners five members shall constitute a quorum.

Engagement

25. The Chairman or, in his absence, the Vice-chairman of the Commis-

[a] See General Acts, 1834–66, 2nd Ed., p. 243.

sioners may, whenever he thinks fit, and shall, upon request made in writing by three members of the Commissioners, or two members of any committee, call an emergent meeting of the said Commissioners or committee, as the case may be.

meetings may be called.

26. The salaried Chairman or salaried Vice-chairman, as the case may be, of the Commissioners shall attend all meetings of the Commissioners held under this Act, unless prevented by sickness or other reasonable cause, and the Chairman or, in his absence, the Vice-chairman shall preside at every such meeting.

Who shall preside at meetings.

In the absence of both the Chairman and the Vice-chairman, the Commissioners present at any meeting may choose one of their number to preside.

The president of any meeting at which a quorum of the Commissioners shall be present may, with the consent of the meeting, adjourn the meeting from time to time and from place to place.

27. Minutes of the proceedings of all meetings of the Commissioners under this Act shall be drawn up and fairly entered in a book to be kept for that purpose, and shall be signed by the president after each meeting; and the said minutes shall at all reasonable times be open at the office of the Commissioners to the inspection of any Commissioner without charge.

Minutes of proceedings of Commissioners to be kept and to be open to inspection.

28. If a poll be taken at any meeting of the Commissioners, the votes of the Commissioners present shall be taken by the president, and the resolution supported by the greater number of votes given at such poll shall be deemed to be the resolution of the Commissioners at such meeting.

Poll how to be taken.

The president shall have a second or casting vote in all cases of equality of votes.

29. A copy of the minutes of every meeting of the Commissioners shall, as soon as conveniently may be, be transmitted to such Secretary of the Lieutenant-Governor of Bengal as he shall from time to time appoint for that purpose, and shall be preserved in the records of the office of such Secretary.

Copy of minutes to be preserved in Bengal Office.

30. All the powers, authorities and duties in and by this Act conferred or imposed upon the Commissioners may be exercised and performed by the salaried Chairman or salaried Vice-chairman, save the powers, authorities and duties by this Act or by any rule, bye-law or order made under the provisions of this Act conferred or imposed on or restricted to the Commissioners at a meeting.

Chairman may exercise certain powers of Commissioners.

31. The Commissioners shall, for the purposes of this Act, have power to acquire and hold immoveable or moveable property, whether within or without

Powers of Commission-

ers as to property.

the limits of the port, by conveyance, gift, lease, assignment or sale from the Governor General in Council, or the Lieutenant-Governor of Bengal, on behalf of the Secretary of State for India in Council, or any corporate body, or any registered joint-stock company or private person, and they shall also have power at a meeting to lease or sell any moveable or immoveable property which may have become vested in or been acquired by them, but which is no longer required for the purposes of this Act:

Provided always that no such sale or other alienation or lease of any immoveable property for any estate or interest exceeding the term of ten years shall be valid unless the sanction of the Lieutenant-Governor of Bengal to such sale, alienation or lease shall be first had.

Property vested by Ben. Act IV of 1869 in Secretary of State to vest in Commissioners.

32. All property which under and by virtue of Act IV of 1869[a] passed by the Lieutenant-Governor of Bengal in Council became vested in the Secretary of State for India in Council shall, from and after the time when this Act shall come into operation, be, and the same is hereby, vested in the Commissioners subject as in the said Act IV of 1869[a] is mentioned.

Commissioners not to demise, &c., tolls and rates without sanction.

33. It shall not be lawful for the Commissioners to demise, farm, sell or alienate any power which by or under this Act may become vested in them of levying tolls, fees, wharfage or rent, rates of charges, unless the assent in writing of the said Lieutenant-Governor of Bengal to such demise, farm, sale or alienation shall have been first had and obtained.

Power to contract.

34. The Commissioners at a meeting may enter into contracts with any body corporate, registered joint-stock company or private person, for the execution or supply by them or him of any works, labour, materials, machines, stores or for other matters necessary for carrying into effect the trusts and purposes of this Act:

Provided always that no contract under or by virtue of which a sum greater than fifty thousand rupees may in any event be payable by the Commissioners shall be valid without the assent in writing of the Lieutenant-Governor of Bengal.

Works to be sanctioned by Lieutenant-Governor.

35. No new work the estimated cost of which shall exceed two thousand rupees shall be commenced by the Commissioners, nor shall any contract be entered into by the Commissioners in respect of any such new work, until a plan and estimate of such work shall have been determined on and approved by the Commissioners at a meeting, and, in case the estimated cost of any such new work shall exceed ten thousand rupees, it shall not be commenced until such plan and estimate shall have been submitted to the Lieutenant-Governor of Bengal, and, sanctioned by him in an order published in the Calcutta Gazette,

[a] Ben. Act IV of 1869 has been repealed by s. 98 of this Act—see *infra*, p. 151.

and in case the estimated cost of any such new work shall exceed two lakhs of rupees, the said Lieutenant-Governor shall not sanction the same until such plan and estimate shall have been submitted to the Governor General of India in Council and approved by him.

Commissioners may compound for breach of contract, &c.

36. It shall be lawful for the Commissioners, at a meeting, to compound or compromise for or in respect of any claim or demand arising out of any contract entered into by them under the authority of this Act, or in respect of any action or suit instituted by or against them, for such sum of money or other compensation as they shall deem sufficient.

Mode of executing contracts.

37. The salaried Chairman or salaried Vice-chairman may, for and on behalf of the Commissioners, enter into any contract or agreement whereof the value or amount shall not exceed one thousand rupees, in such manner and form as according to the law for the time being administered by the High Court of Judicature at Fort William in Bengal would bind him if such contract or agreement were on his own behalf; but every other contract and agreement by or on behalf of the Commissioners shall be in writing and signed by the salaried Chairman or salaried Vice-chairman and by two other Commissioners, and shall be sealed with the common seal of the Commissioners, and no contract nor agreement not executed as in this section is provided shall be binding on the Commissioners.

Acquisition of land.

38. When the Commissioners are unable to acquire by agreement any land or building required for the purposes of this Act, the Lieutenant-Governor of Bengal in his discretion may declare that the land or building is required for a public purpose, and may order proceedings to be taken for obtaining possession of the same for Government, and for determining the compensation to be paid to the parties interested, according to any law[a] in force for the acquisition of land for public purposes.

Such land or building when acquired shall be conveyed to the Commissioners on their paying the compensation awarded and all costs connected therewith.

General nature of works under Act.

39. The works to be constructed and carried out by the Commissioners under the provisions of this Act may include—

(1) wharves, quays, stages, jetties and piers within the port, with all necessary and convenient arches, drains, landing-places, stairs, fences and approaches:

(2)[b] tramways, warehouses, sheds, engines and other appliances for conveying, receiving and storing goods and merchandize landed or to be shipped

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[a] See Act X of 1870, in General Acts, 1867–76, 2nd Ed., p. 177.

[b] This sub-clause has been substituted for the original sub-clause (2) by Ben. Act II of 1883, s. 2—see Ben. Act II of 1883, s. 2, *infra*.

or carried, and accommodation for the sampling and selling of such goods and merchandize: such tramways, with the previous sanction of the Lieutenant-Governor of Bengal, to be worked by locomotive engines or other motive power drawing or propelling carriages and wagons for the conveyance of goods therein:

(3) laying down moorings for carrying out the purposes of the Act: and the erection of cranes, scales and all other necessary means and appliances for loading and unloading vessels:

(4) reclaiming, enclosing and raising any part of the river-bank or of the river-bed within the port which may be necessary for the execution of the works authorized by this Act, or otherwise for the purposes of this Act:

(5) the construction and application of dredges, and other machines for cleaning, deepening and improving the river-bed within the port:

(6) the construction of such works without the limits of the port as shall be necessary for the protection of works executed under this Act: and all such other works and appliances as may in the opinion of the Commissioners at a meeting be necessary for carrying out the purposes of this Act.

Power to procure and charge for steam-tugs.

40. It shall be lawful for the Commissioners at a meeting to provide or procure such steam-vessels as they may think fit, and to employ the same or any of them in towing vessels into, out of, in or upon, the river Hooghly or in the port, and to make such charges for towage by the said steam-vessels as they may deem expedient.

41-47.—[*Money to be raised for works; mode of raising money; debentures; application of funds; surplus funds; payment of debentures by fresh mortgage of rates; form of debenture.*] *Rep. by Ben. Act IV of 1880.*

Estimate of income and expenditure to be submitted annually to Commissioners.

48. The salaried Chairman or salaried Vice-chairman shall at a special general meeting, to be held within two months after the commencement of this Act, lay before the Commissioners a separate estimate of the expenditure and income of the Commissioners for the period which shall be to come from the commencement of this Act up to the first day of April then next ensuing; and shall also at a special general meeting, to be held in the month of February in each year, lay before the Commissioners a like estimate of such income and expenditure for the year commencing on the first day of April then next ensuing.

Every such estimate shall be in such form as the Lieutenant-Governor of Bengal shall, by an order published in the Calcutta Gazette, direct:

Provided always that such estimate shall be completed and printed, and a copy thereof sent by post or otherwise to each Commissioner, at least ten clear days prior to the meeting before which the estimate is to be laid.

49. It shall be in the discretion of the Commissioners at such meeting by resolution to pass or to reject, or to modify or alter, such estimate and pass such estimate so modified or altered. Revision and passing of estimates.

50. Every such estimate when passed by the Commissioners in pursuance of the provisions of this Act shall be submitted to the Lieutenant-Governor of Bengal, and it shall be lawful for such Lieutenant-Governor either to approve of such estimate or to return the same with his remarks thereupon, and the Commissioners shall forthwith at a meeting proceed to reconsider such estimate in reference to such remarks and to modify or alter the same, and to resubmit such estimates to the said Lieutenant-Governor, and it shall not be lawful for the Commissioners to expend any greater sum under such estimate than shall be approved by the said Lieutenant-Governor. Estimate to be approved by Lieutenant-Governor.

51. It shall be lawful for the Commissioners, in the course of any year for which an estimate shall have been approved by the Lieutenant-Governor, to cause a supplemental estimate for the residue of such year to be prepared and laid before the Commissioners at a meeting, and thereupon such proceedings shall be had as in and by sections 48, 49 and 50 are directed to be had with respect to the estimate therein mentioned. Power to make supplemental estimate.

52. It shall not be lawful for the Commissioners to expend any sum for any purpose not approved in some estimate for the time being in force, save in cases of pressing emergency; nor shall it be lawful for them to expend for any purpose not so approved any sum exceeding two thousand rupees without the assent in writing of the Lieutenant-Governor of Bengal. Expenditure to be made in pursuance of estimate.

53. The accounts of the receipts and expenditure under this Act shall twice in every year be laid before the Lieutenant-Governor of Bengal, and shall be audited and examined. Accounts to be audited and examined.

The audit shall be made by such public department or by such auditors as shall from time to time be appointed by the Lieutenant-Governor of Bengal.

For the purposes of any audit and examination of accounts under this Act the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers and all other documents and papers which they may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents or papers to appear before them at any such audit and examination or adjournment thereof, and to make and sign a declaration with respect to the same: and if any such person neglect or refuse so to do, or to produce any such books, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign such declaration, he shall be liable for every neglect or refusal to a penalty not exceeding one hundred rupees.

All auditors not being a public department acting under this Act shall in respect of each audit be paid by the Commissioners such remuneration as the Lieutenant-Governor of Bengal shall from time to time determine:

Provided always that, before each audit and examination of accounts under this Act, the salaried Chairman or salaried Vice-chairman shall give ten days' notice of the time and place at which the same will be made by advertisement in the Calcutta Gazette and in at least two of the daily English newspapers published in Calcutta; and a copy of the accounts to be audited and examined shall be deposited in the office of the Commissioners, and thereat be open during office-hours to the inspection of any person on payment of a fee of one rupee on each occasion of inspection, for seven days before the audit and examination, and all such persons shall be at liberty to take copies of, or extracts from, the same without further payment, and, within fourteen days after the audit and examination shall have been completed, the auditors shall report upon the accounts audited and examined, and shall deliver such report to the Commissioners at a meeting, who shall cause the same to be deposited in the office of the Commissioners and to be published in the Calcutta Gazette and in some one or more of the said newspapers.

Public landing-places to be provided.

54. The Commissioners shall make a sufficient number of public landing-places from and upon which the public shall be permitted to embark and to land free of charge.

Ghâts and bathing-places to be provided.

55. It shall be lawful for the Commissioners, if they shall consider it necessary for the purposes of this Act, to occupy or remove or modify any bathing-ghât or landing-place within the port, and to prohibit the public from afterwards resorting to or using the same:

Provided nevertheless that the Commissioners shall reserve, set out, make and provide for the use of the public such sufficient bathing-ghâts within the port, not exceeding in number those that may be so modified or removed, as the Lieutenant-Governor of Bengal may direct.

No wharf, quay, &c., to be made without consent of Lieutenant-Governor.

56. It shall not be lawful for any person or persons, save the Commissioners, to make, erect or fix below high water-mark within the port any wharf, quay, stage, jetty, pier, erection or mooring without the consent in writing of the Lieutenant-Governor of Bengal first had and obtained.

Any matter or thing which may be so erected or fixed may be removed by the Commissioners: and the person who shall have so made, erected or fixed any such matter or thing shall be liable on conviction to a fine which may extend to one thousand rupees and to a further fine which may extend to one hundred rupees for every day during which such matter or thing shall have been permitted to remain so made, erected or fixed after notice to remove the

same shall have been given to him, and shall also be liable to pay all expenses which may have been incurred by the Commissioners in removing such matter or thing:

Provided that this section shall not apply to moorings laid down or to be laid down by the conservator of the port.

Power to remove erections.

57. In case any wharf, dock, quay, jetty, pier, erection or mooring shall without the consent in writing of the Lieutenant-Governor of Bengal be fixed, excavated, erected or built below high water-mark without the limits for the time being of the port, and thereafter the limits of the port shall be extended so as to include the place in which such wharf, dock, quay, jetty, pier, erection or mooring shall have been fixed, excavated, erected or built, it shall be lawful for the Commissioners to remove, fill-up or destroy such wharf, dock, quay, jetty, pier, erection or mooring without making any compensation therefor.

Wharves, &c. to be appointed under Customs Acts.

58. When the Lieutenant-Governor of Bengal shall, under the provisions of any Act for the regulation of duties of customs, appoint any wharf, quay, stage, jetty or pier, erected or acquired under this Act for the use of sea-going vessels, to be a wharf for the landing of goods within the meaning of such enactment,[a] the Commissioners shall set apart, maintain and secure on such wharf, quay, stage, jetty or pier such portion thereof, or place therein, or adjoining thereto, for the use of the officers of customs, as the Lieutenant-Governor of Bengal shall in that behalf approve or appoint.

Dues for wharves in possession of customs-officers.

59. Notwithstanding that any wharf, quay, stage, jetty or pier or portion thereof shall under the provisions of the last section have been set apart for the use of the officers of customs, all dues, rates, tolls and rents payable in respect thereof, or for the use thereof, or for the storage of goods thereupon, shall be paid and payable to the Commissioners or to such person or persons as they may appoint to receive the same.

Commissioners to provide servants, &c., for shipping and landing goods.

60. The Commissioners shall, when thereunto required by the Lieutenant-Governor of Bengal, provide and keep and maintain sufficient servants and apparatus for the expeditious and convenient landing and shipment of goods from and upon all sea-going vessels coming to the wharves, quays, stages, jetties or piers erected by them, and shall by their servants land and ship all goods from and upon any such vessel so coming to such wharf, quay, stage, jetty or pier, unless where there is a legal excuse for refusing to land or ship such goods, or such vessel is by reason of the breach or non-observance of any law or regulation not entitled to have her cargo shipped or discharged:

Provided that the Commissioners shall not be bound to land, ship or move

[a] See Act VIII of 1878, s. 11, in General Acts, 1877—81, p. 186.

any single article or package exceeding thirty tons of twenty hundredweight in weight, except at such special charge as may be agreed on in respect of such article or package.

Discharge of liability on Commissioners landing goods.

61. Whenever any goods shall be landed by the Commissioners from any vessel under the powers by this Act conferred on them, they shall, if thereunto required, give to the person in charge of such vessel a receipt in the form or to the effect in Schedule D set forth, and may in any such receipt include all goods landed from such vessel during one day, and no person to whom such receipt shall have been so given, nor the master nor owner of the vessel from which the goods in respect of which such receipt shall be given may have been landed, shall be liable for any loss or damage to such goods which may occur after they shall have been so landed.

Power to compel ships to load and unload at wharves, &c., of Commissioners.

62. When any wharf, quay, stage, jetty or pier erected under the provisions of this Act shall have been made and completed, together with sufficient warehouses, sheds, cranes and moorings for landing and shipping,[a] or for landing or for shipping,[a] goods from and upon sea-going vessels, it shall be lawful for the Commissioners with the sanction of the Lieutenant-Governor of Bengal, by a notification published in three consecutive numbers of the Calcutta Gazette, to declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping, [b]or for landing or for shipping,[b] goods from and upon sea-going vessels.

And, from and after such notification and publication, it shall be lawful for the Commissioners to require the conservator of the port, or other person exercising the rights, powers and authorities of the conservator of the port, from time to time, when there shall be room at such wharf, quay, stage, jetty or pier, to order to come alongside of such wharf, quay, stage, jetty or pier, for the purpose of being laden or unladen by the Commissioners, any sea-going vessel which shall not have commenced to discharge a cargo, or which being about to take in cargo shall not have commenced to take in cargo.

And if, after such order of the conservator of the port or other person aforesaid, the owner or master of any such vessel shall either take in or discharge cargo, save and except at such wharf, quay, stage, jetty or pier to which such vessel shall have been so ordered, the owner thereof or, in case he shall not be in Calcutta, the master thereof, shall be liable to a penalty of one hundred rupees for each day that he shall land or ship or attempt to land or ship any goods in contravention of such order.

When suffi-

63. When a sufficient number of wharves, quays, stages, jetties and piers

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a-a, b-b These words in s. 62 have been inserted by Ben. Act VII of 1871, s. 2—see that section, *infrd*, p. 179.

shall have been erected under this Act for landing and shipping the cargoes of all sea-going vessels resorting to the port, it shall be lawful for the Commissioners with the sanction of the Lieutenant-Governor of Bengal, by an order published in three consecutive numbers of the Calcutta Gazette, to direct that no goods shall be landed or shipped from or upon any sea-going vessel within the port save at such wharves, quays, stages, jetties and piers, and by any order in like manner published to alter, vary or revoke any such order:

cient accommodation, all vessels to load and unload at Commissioners' wharves.

And whoever shall, after such order has been so published as aforesaid, land or ship, or attempt to land or ship, any goods in contravention of such order, shall be liable to a fine not exceeding two hundred rupees for every day that he shall so land or ship any goods in contravention of the said order:

Provided always, and it is hereby declared, that notwithstanding any thing in this or in section 62 contained, it shall be lawful for the Lieutenant-Governor of Bengal, by notice in the Calcutta Gazette, from time to time, if he shall so think fit, to declare that certain specified vessels or classes of vessels shall be permitted to discharge or ship cargo, or that certain specified goods or cargoes, or classes of goods or cargoes, shall be permitted to be landed or shipped elsewhere, and at such part of the port of Calcutta, and for such time and on such conditions, as he may think fit.

Inland vessels to load and unload at places provided for them.

64. When any wharf, quay, stage, jetty or pier for receiving, landing or shipping goods from vessels (not being sea-going vessels) shall have been made and completed with all proper appliances in that behalf, it shall be lawful for the Commissioners with the sanction of the Lieutenant-Governor, by an order published in three consecutive numbers of the Calcutta Gazette, to declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping goods from vessels not being sea-going vessels, and in the same way to order that, within certain prescribed limits to be therein specified in that behalf, it shall not be lawful to land or ship any goods out of, or into, any vessel (not being a sea-going vessel) of any class specified in such order, except at such wharf, quay, stage, jetty or pier;

and in the same way to alter, vary or revoke any such order.

After such publication as aforesaid, it shall not be lawful for any vessel of such class to land or ship any goods at any place within the limits so specified, except at such wharf, quay, stage, jetty or pier, nor for any such vessel, while within such limits, to anchor, fasten or lay within fifty yards of the ordinary low-water mark without the consent of the Commissioners.

And if after such publication any such vessel shall while within such limits so anchor, fasten or lay, it shall be lawful for the Commissioners to cause the same to be removed out of the said limits, and it shall be the duty of the

conservator of the port to aid and assist the Commissioners in so removing such vessel.

Any person guilty of any breach of the provisions of this section shall be liable to a fine not exceeding fifty rupees for every such breach.

Tolls to be levied.

65. The Commissioners shall frame a scale of tolls, dues, rates and charges for the landing and shipment of goods from and into sea-going vessels at the wharves, quays, stages, jetties and piers erected under this Act, and for the use thereof by such vessels, and for the storing and keeping of any goods stored in any premises belonging to them, and for the removal of goods and for the use of any moorings laid down or acquired under the provisions of this Act or of Act X of 1866,[a] or of Act IV of 1869,[a] respectively passed by the Lieutenant-Governor of Bengal in Council;

and also a scale of tolls, dues and rates for the landing and shipment of goods into, and out of, any vessel (not being a sea-going vessel), and also a scale of tolls for the use of the said wharves, quays, moorings, stages, jetties and piers by any such vessels, in case the Commissioners shall permit the goods to be landed or shipped by others than their own officers and servants, and also a scale of charges for any services to be performed by the Commissioners or their servants in respect of any vessel or goods, or for the use of any works or appliances to be provided by the Commissioners.

Such scale of tolls, dues, rates and charges shall be adopted by a resolution of the Commissioners at a meeting, and shall be submitted to the Lieutenant-Governor of Bengal, and, after receiving his approval, shall be published by the Commissioners in the Calcutta Gazette, and may from time to time, subject to the like approval and publication, be in like manner altered.

Power to impose rates on goods to provide for payment of debt.

66. If on the preparation of the estimate of any year, it shall appear that the estimated income of the Commissioners for such year, after deducting therefrom the estimated expenditure of such year to be incurred under this Act, will be insufficient for the payment of the sums which under the provisions of this Act will be payable during such year to the Secretary of State for India in Council, or if at any time in the course of a year it may appear that the actual income of such portion of the year as may have then elapsed and the estimated income of the residue of such year, after deducting therefrom the actual expenditure of such past portion and the estimated expenditure of such residue, will be so insufficient, then and in every such case the Commissioners shall, upon the requisition in writing of the Lieutenant-

[a] Ben. Acts X of 1866 and V of 1869 have been repealed by s. 93 of this Act—see *infra*, p. 151.

Governor of Bengal, from time to time, and to the extent requisite in every case, charge upon all goods landed from, or shipped into, any vessel lying or being within the limits of the port, whether such goods shall or shall not be so landed or shipped at any wharf, quay, stage, jetty or pier belonging to the Commissioners, such tolls, dues, rates and charges, in addition to or other than those prescribed by any scale of tolls, dues, rates and charges for the time being in force under the provisions of section 65, as will, when added to the said income of the year, suffice, as nearly as may be, for the payment of the said sums in full.

Such tolls, dues, rates and charges shall be fixed and adopted by a resolution of the Commissioners at a meeting, and shall be submitted to the Lieutenant-Governor of Bengal, and if the same shall be approved by him shall be published in the Calcutta Gazette, and shall forthwith come into operation and remain in operation until altered or revoked by the Commissioners at a meeting with the sanction of the Lieutenant-Governor of Bengal, and shall be leviable and recoverable in like manner as any other tolls, dues, rates and charges payable under this Act.

On failure of Commissioners, Lieutenant-Governor may impose rates.

67. In case the Commissioners shall, for fifteen days after the receipt by them of any such requisition from the Lieutenant-Governor of Bengal as in section 66 is mentioned, neglect or refuse to charge such tolls, dues, rates and charges, it shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the Calcutta Gazette, to charge such tolls, dues, rates and charges, and the tolls, dues, rates and charges mentioned in such order shall have such and the same effect as if they had been fixed and adopted by the Commissioners at a meeting and approved by the Lieutenant-Governor and published in the Calcutta Gazette as in section 66 is mentioned.

Recovery of tolls in arrear.

68. For the amount of all tolls, charges, dues and rates duly leviable under this Act in respect of any goods the Commissioners shall have a lien on such goods, and shall be entitled to seize and detain the same until such tolls, rates and dues are fully paid.

Tolls, rates and dues in respect of goods to be landed shall become payable immediately on the landing of the goods.

Tolls, rates and dues in respect of goods to be removed from the premises of the Commissioners, or to be shipped for export, shall be payable before the goods are removed or shipped.

The lien for such tolls, rates and dues shall have priority over all other liens and claims, except for general average, for the ship-owner's lien for freight upon the said goods where such lien exists and has been preserved in the manner hereinafter provided, for primage, and for money payable to Her

Majesty or the Secretary of State for India in Council under any law for the time being in force:

Provided that nothing in this Act shall affect any power or authority vested in the chief officer of customs under any law for the time being in force.

Goods may be removed to public warehouses.

69. In any case in which goods without any default on the part of the Commissioners shall have been left for two days on or in any wharf or shed belonging to the Commissioners, it shall be lawful for the Commissioners to remove such goods, or cause the same to be removed, either to any warehouse belonging to them, or, with the consent of the chief officer of customs, to the public warehouses, and the removal to and detention in any such warehouse shall be at the risk and expense of the owners of the said goods.

Whenever any goods shall be so removed, the Commissioners shall give notice to the consignee or owner of such goods of such removal, if his address be known, by letter sent by post to such address or left thereat, and shall also publish in the Calcutta Gazette notice of such removal, and shall specify therein the numbers, marks and descriptions of such goods so far as the same appear, and the consignee or owner of such goods, in addition to the expenses of the removal of the same, shall be liable, in case the goods shall be removed to any warehouse or store of the Commissioners, to a charge for warehousing for the time during which the goods shall remain in the said warehouse.

In case the said goods shall be removed to the public warehouses, then the said consignee or owner shall be liable to the charges for warehousing goods in such public warehouses, and the said goods shall remain subject to all liens to which they would have been liable if they had remained in the possession of the Commissioners, and to the power of sale hereinafter given.

Lien for freight preserved after landing of goods if notice of lien be given.

70. If the master or owner of any vessel or his agent, at or before the time of landing from such vessel any goods at any wharf, quay, stage, jetty or pier erected under this Act, shall give to the Commissioners notice in writing that such goods are to remain subject to a lien for freight or other charges payable to the ship-owner to an amount to be mentioned in such notice, such goods shall continue liable to the same lien, if any, for such charges, as they were subject to before the landing thereof.

Such goods shall be retained either in the warehouses and sheds of the Commissioners, or, with the consent of the chief officer of customs, in the public warehouses, at the risk and expense of the owners of the said goods, until the lien is discharged as hereinafter mentioned.

Discharge of lien by pay-

71. Upon the production to the officer of the Commissioners in that behalf of a document purporting to be a receipt for the amount claimed as due, or a

release of freight from the person by or on whose behalf such notice shall have been given, it shall be lawful for the Commissioners to permit such goods to be removed without regard to such lien, provided they shall have used reasonable care in respect to the authenticity of such document.

ment or release.

72. If the tolls, rates and dues payable to the Commissioners in respect of any goods under this Act are not paid, or if the lien of the ship-owner for freight where such notice as aforesaid has been given is not discharged, the Commissioners may, and in the latter event if required by or on behalf of the person claiming such lien for freight shall, at the expiration of two months from the time when the goods were placed in their custody, or if the goods are of a perishable nature at such earlier period, being not less than twenty-four hours after the landing of the goods, as they shall think fit, sell by public auction the said goods, or so much as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

If tolls not paid, or lien for freight not discharged, goods may be sold after expiration of two months.

Before making such sale ten days' notice of the same shall be given by publication thereof in the Calcutta Gazette, unless the goods are of so perishable a nature as, in the opinion of the officer of the Commissioners in that behalf, to render immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits of.

If the address of the owner of the goods has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the Commissioners, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address or sent by the post: but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send the notice hereinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.

73. In every case of any such sale as aforesaid, the moneys received from the sale shall be applied as follows:—

Application of proceeds of sale.

1st,—in payment of the expenses of the sale:

2ndly,—in payment according to their respective priorities of the liens and claims excepted in section 68 from the priority of the liens of the Commissioners for tolls, rates and dues:

3rdly,—in payment of the tolls, charges and expenses of landing, removing, storing or warehousing the same, and of all other charges due to the Commissioners under this Act in respect thereof.

The surplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agent, on his applying for the same; provided such application be made within one year from the sale of the goods, or good reason be

shown why such application was not so made to the satisfaction of the Commissioners; and in case such application shall not be so made, nor reason shown, such surplus shall be held by the Commissioners upon trust for the purposes of this Act.

Power to distrain vessels for non-payment of tolls

74. If the master of any vessel in respect of which any tolls, dues, rates, penalties or charges shall be payable under this Act, or any rules or orders made in pursuance thereof, shall refuse or neglect to pay the same or any part thereof on demand, it shall be lawful for the Commissioners to apply to the Collector of Customs of the port of Calcutta, and such Collector shall distrain or arrest of his own authority such vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the Commissioners shall be paid; and in case any part of the said tolls, duties, rates, penalties or charges, or of the costs of the distress or arrestment, or of the keeping of the same, shall remain unpaid for the space of five days next after any such distress or arrestment shall have been so made, the Collector of Customs may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy such tolls, dues, rates, penalties or charges and costs, including the costs of sale, remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

Port-clearance not to be granted till tolls paid.

75. If the Commissioners shall give to the officer of Government whose duty it shall be to grant the port-clearance of any vessel a notice stating that an amount therein specified is due in respect of tolls, dues, rates or charges, or penalties chargeable, under this Act or any bye-laws, rules or orders made in pursuance thereof, against such vessel or the owner or master of such vessel in respect thereof, or against or in respect of any goods on board such vessel, such officer shall not grant such port-clearance until the amount so chargeable shall have been paid.

Compensation for damage to property of Commissioners.

76. In case any damage or mischief shall be done to any wharves, quays, jetties, piers or works constructed or acquired by the Commissioners under the provisions of this Act, by any vessel, through the negligence of any person having the guidance or command thereof, or of any of the mariners or persons employed therein, it shall be lawful for any Magistrate of the town of Calcutta, on the application of the Commissioners, to issue a summons to the master of, or agent for, such vessel requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief.

If at the time appointed in the summons, and whether the person summoned shall appear or not, it shall be made out to the satisfaction of the Magistrate that the alleged damage was done through such negligence as

aforesaid, and that the pecuniary amount of the same does not exceed two hundred rupees, it shall be lawful for the Magistrate to issue his warrant of distress under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores of the vessel may be seized and sold to cover the expenses of and attending the execution of the distress and the pecuniary amount of damage as aforesaid, and such amount shall be paid to the Commissioners out of the proceeds of the distress:

Provided that, if at the time of the damage or mischief the vessel was under the orders of a duly authorized officer belonging to the pilot-service or the harbour-master's or master-attendant's department, the case shall not be cognizable by the Magistrate under this section.

Sanitary provisions.

77. Any person who wilfully deposits, or permits his servants to deposit, any dust, dirt, dung, ashes, refuse or filth of any kind, or any animal matter or any broken glass, earthenware or rubbish, in or upon any wharf, quay, stage, jetty or pier belonging to the Commissioners, or in or upon any part of the river-bank within the port, shall be liable to a fine not exceeding ten rupees for each offence.

Limits of port of Calcutta how defined.

78. It shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the Calcutta Gazette, to define the limits of the port for the purposes of this Act, and from time to time, by any notice to be in like manner published, to alter, vary or revoke the same or any part thereof, and by the same or any other order to be in like manner published to define other limits of the port, and the limits[a] so defined in any such order shall, while such order is in force, be for the purposes of this Act the limits of the port:

Provided, however, that until such order shall be published, the limits of the port as for the time being defined by a declaration made by the Government of Bengal under the provisions of the Indian Ports Act, 1889,[b] passed by the Legislative Council of India shall, for the purposes of this Act, be the limits of the port.

X of 1889.

Jurisdiction as to offences committed within Calcutta.

79. Every charge of an offence against any provision of this Act, or of any rule, order or bye-law made under the provisions of this Act, alleged to have been committed within the town of Calcutta, shall be heard and determined in a summary way by some Police Magistrate[c] of Calcutta, according to the provisions of the law for the time being regulating the procedure of the Court of such Police Magistrate.[c]

Jurisdiction

80. Every charge of an offence against the provisions of this Act, or of

[a] For notification under s. 78 defining the limits of the port of Calcutta, see Calcutta Gazette, 30th June, 1886, Pt. I, p. 774.

[b] See Act X of 1889, s. 2 (3).

[c] Now Presidency Magistrate—see Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

as to offences committed out of Calcutta.

any rule, order or bye-law made under the provisions of this Act, alleged to have been committed out of Calcutta, may be heard and determined by any officer authorized to exercise any of the powers of a Magistrate in the place in which such offence may be alleged to have been committed, and the provisions of the Code of Criminal Procedure, 1882,[a] shall apply to the trial of every such charge. X of 1882

Regulations as to buoys and moorings

81. All regulations under, and provisions of, the said Indian Ports Act, 1889,[b] passed by the Legislative Council of India, with regard to buoys and moorings, shall extend to the buoys and moorings laid down by, or belonging to, the Commissioners. X of 1889

The conservator of the port and his assistants, in carrying out and enforcing such regulations, shall act under the direction of the Commissioners.

82 to 84.—[*Bye-laws made by Commissioners; approval of bye-laws; power to revoke same.*] *Rep. by Ben. Act IV of 1880.*

Penalty for infringement of bye-laws.

85. No penalty for any one infringement of a bye-law shall exceed one hundred rupees, nor in case of a continuing infringement shall any penalty exceed fifty rupees per diem, for every day after notice of such infringement shall have been given by the Commissioners to the person guilty of such infringement.

Bye-laws and tables of tolls to be exhibited.

86. The Commissioners shall cause the said bye-laws and the tables of tolls, dues, rates and charges leviable to be printed in the English and Bengali languages and characters, and to be hung up and kept hung up at the several wharves, quays and jetties and other convenient places on the premises of the Commissioners.

Notice of action.

87. No suit shall be brought against any person for any thing done, or purporting or professing to be done, in pursuance of this Act after the expiration of three months from the day on which the cause of action in such suit shall have arisen.

Government may order local survey.

88. The Lieutenant-Governor of Bengal may at any time order a local survey and examination of any works of the Commissioners under this Act, or the intended site thereof, and the cost of such survey and examination shall be borne and paid by the Commissioners out of the moneys in their hands by virtue of this Act.

Government may restore or complete works

89. If the Commissioners shall allow any work constructed by them under this Act to fall into disrepair, or shall not complete any work commenced by them or included in any estimate as aforesaid submitted and approved of, and shall not after due notice in writing proceed effectually to repair or complete such work under this Act, it shall be lawful for the Lieutenant-Governor of

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[a] See Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.
[b] See Act X of 1889, s. 2 (*3*).

Bengal to cause such work to be restored, completed or constructed either by the officers of Government or any private contractor, and the cost of any such restoration, completion or construction shall be a charge on the works, and a debt due from the Commissioners to the Secretary of State for India in Council.

90.—[*Mode of realizing money due to Secretary of State.*] *Rep. by Ben. Act IV of 1880.*

Government may take possession and revoke powers of Commissioners.

91. If at any time it shall appear to the satisfaction of the Lieutenant-Governor of Bengal that the works intended to be accomplished under this Act have not been, and are not likely to be, properly carried out, or (if carried out) have not been, and are not likely to be, properly maintained by the Commissioners, it shall be lawful for the said Lieutenant-Governor to give six months' notice, by order published in the Calcutta Gazette, that unless within that period the Commissioners shall take measures to the satisfaction of the said Lieutenant-Governor for the carrying out or proper maintenance of the said works, the powers by this Act conferred on the Commissioners will at the end of such period be withdrawn and revoked, and the Government of Bengal may assume possession and management of the works (if any) already constructed, and on the expiration of such period of six months by an order in like manner published to declare such powers revoked.

By such last-mentioned order and without the necessity of any conveyance, all immoveable and moveable property, all rights of levying and recovering tolls, dues and rates, all benefit of contracts, and all rights of suit, which at the time may be vested in the Commissioners under this Act, shall be transferred to and vested in the Secretary of State for India in Council, and the rights of all creditors of the Commissioners under this Act shall continue as against the said Secretary of State in Council to the extent of the property so transferred to and vested in him.

Powers of Justices over river-bank withdrawn.

92. From and after the commencement of this Act the powers in and by sections 91, 184 and 185 of Act VI of 1863,[a] passed by the Lieutenant-Governor of Bengal in Council, or any of them, conferred upon the Justices of the Peace for the town of Calcutta, shall absolutely cease and determine with respect to any part of the river or river-bank of the port.

93, 94.—[*Repeal of Ben. Acts X of 1866 and IV of 1869; commencement of Act.*] *Rep. by Act XII of 1873.*

Power to make Commissioners conservators of port.

95. It shall be lawful for the Lieutenant-Governor of Bengal, with the previous sanction of the Governor General of India in Council, at any time after the passing of this Act, by an order published in the Calcutta Gazette, to confer on the Commissioners the powers of the conservator of the port of

[a] Ben. Act VI of 1863 has been repealed by Ben. Act IV of 1876.

Calcutta within the port and such portions of the navigable rivers and channels leading thereto, and connected therewith, as shall be specified in such order, and from time to time, by any other order to be in like manner published, to confer on the Commissioners the same powers in any other portion of the said river and channels:

Provided always that no such order shall be made without the consent of the Commissioners at a meeting.

Port-dues may be made payable to Commissioners.

96. Every such order may direct that any of the port-dues or fees payable under the provisions of any Act authorizing the levy, or requiring payment, of port-dues or fees from or in respect of vessels entering or leaving the said port, or being or lying therein, or using the said port, shall be received by the Commissioners, and shall also specify the amount, if any, of charge to which the Commissioners shall be liable in respect thereof.

Commissioners to exercise powers of conservator.

97. From and after the publication of any such order the Commissioners shall have within the port and the portion of the said navigable rivers and channels specified in any such order all and singular the rights, powers and authorities in and by the Indian Ports Act, 1889,[a] passed by the Legislative Council of India, or any other Act, conferred on the conservator of the port, and may exercise such rights, powers and authorities by any officer to be by them thereunto appointed, and the said rights, powers and authorities shall not be exercised by any other person within the said port or portion of the said navigable rivers and channels. X of 1889.

Commissioners to receive port-dues.

98. From and after the publication of any such order, all the port-dues and fees in and by such order directed to be received by the Commissioners and payable in respect of any vessel entering or leaving the port, or being therein, shall be payable to the Commissioners, and shall be deemed to be a portion of their income, and shall be included in their annual estimates and accounts.

Powers to make improvement

99. From and after the publication of any such order, the Commissioners may execute within the port and the portion of such navigable rivers and channels in such order mentioned such works as they at a meeting may determine, and all the powers, authorities, restrictions and provisions contained in this Act in respect to the works by this Act authorized shall apply to such works and to the sanction thereof, the estimates therefor, and the expenditure thereon.

Charge to be included in debt to Gov.

100. If in any such order the Lieutenant-Governor of Bengal shall specify any amount of charge to which the Commissioners shall be liable in respect of the port-dues and fees to be received by them, the same shall be deemed to be a sum of money advanced by the Secretary of State for India in Council under

[a] See Act X of 1889, s. 2 (3).

the provisions of this Act, and to be due on the day upon which such order shall take effect.

Commissioners may be appointed Receivers of Wreck.

100A.[a] The Commissioners shall, if and when appointed, under the provisions of section 73 of the Indian Merchant Shipping Act, 1880,[b] to be Receivers of Wreck within the limits of their jurisdiction, exercise within such limits all the functions of a Receiver of Wreck under the said Act.

of 1880.

Short title.

101. This Act may be called the Calcutta Port Improvement Act, 1870.

[SCHEDULES A, B, AND C.] *Rep. by Ben. Act IV of 1880.*

SCHEDULE D (*referred to in section 61*).

FORM OF RECEIPT FOR GOODS.

By the Commissioners for making Improvements in the Port of Calcutta.

Landed during the day of from the by the Commissioners for making Improvements in the Port of Calcutta the noted in the margin (*if there be any apparent injury this is to be stated*), contents and state of the contents unknown.

(*For the Commissioners for making Improvements in the Port of Calcutta.*)

A. B.

CALCUTTA,
day of 18 .

ACT No. VI OF 1870.[c]

Received the Lieutenant-Governor's assent on the 16th June, 1870, and the Governor General's assent on the 28th September, 1870.

An Act to provide for the Appointment, Dismissal and Maintenance of Village-chaukidárs.

Preamble.

WHEREAS it is expedient to make provision for the appointment, dismissal and maintenance of village-chaukidárs in the provinces subject to the Lieutenant-Governor of Bengal; It is enacted as follows :—

Definitions.

1. The following words and expressions shall, in the construction of this

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[a] S. 100A has been added by Ben. Act I of 1881—see s. 6 of that Act, *infra*.

[b] See General Acts, 1877—81, p. 409.

[c] This Act has been declared in force, under s. 3 of the Scheduled Districts Act, 1874, in the District of Manbhoom and Pergunnah Dhalbhoom—see Vol. I, p. 677. It has been extended, under s. 5 of the same Act, to the District of Goálpára—see Appendix to Assam Supplement.

Ben. Act I of 1871 and Ben. Act I of 1886 (which does not apply to Assam) are to be read with and taken as part of this Act—see Ben. Act I of 1871, s. 7, and Ben. Act I of 1886, s. 1, *infra*.

Act, have the several meanings hereby assigned to them respectively, except where a different intention shall appear from the context (that is to say):—

"Magistrate of the district."

the words "Magistrate of the district"[a] shall mean the chief officer charged with the executive administration of a district in criminal matters by whatsoever designation such officer is called:

"Magistrate."

the word "Magistrate" shall mean the officer exercising all or any of the powers of a Magistrate, and charged with the immediate executive administration in criminal matters, in any subdivision of a district or portion of a district within which any village may be situated, by whatsoever designation such officer is called:

"Chaukidári chakran lands."

the words "chaukidári chakran lands" shall mean lands which may have been assigned, otherwise than under a temporary settlement, for the maintenance of the officer who may have been bound to keep watch in any village and report crime to the police, and in respect to which such officer may be at the time of the passing of this Act liable to render service to a zamindár:

"Zamindár."

the word "zamindár" shall mean the person whose name is registered in the general register of estates paying revenue directly to Government as the proprietor of an estate so paying revenue, or the person whose name is registered in the general register of rent-free tenures as proprietor of a rent-free tenure.

Repeal of section.

2. Section 21, Regulation XX of 1817,[b] is hereby repealed[c] as to all villages to which this Act may apply.

Power to appoint panchayat in villages.

3.[d] It shall be lawful for the Magistrate of the district,[a] by a writing under his hand, to appoint not less than three nor more than five persons to be a panchayat[e] in any village containing more than sixty houses, within the district of which he has charge:

Provided that no such panchayat shall be appointed in any place to which the Bengal Municipal Act, 1884,[f] has been, or may hereafter be, extended: Ben. III of 1884.

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[a] Now District Magistrate—see Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

[b] See Vol. I, p. 134.

[c] This repeal will not take effect in any village or union until a chaukidár has been appointed therein under the provisions of this Act—see Ben. Act I of 1871, s. 1, *infra*, p. 169.

[d] This section has been substituted for the original s. 3 by Ben. Act I of 1886 (which does not apply to Assam), s. 2—see Ben. Act I of 1886, s. 2, *infra*. The original section is as follows:—

Power to appoint panchayat in villages.

"3. It shall be lawful for the Magistrate of the district, by a sanad under his hand and seal, to appoint not less than three nor more than five persons to be a panchayat in any village containing more than sixty houses, within the district of which he is in charge: Provided that no such panchayat shall be appointed in any village to which the provisions of Act XXVI of 1850 or of Act XX of 1856, passed by the Legislative Council of India, or the provisions of Act III of 1864 or of Act VI of 1868, passed by the Lieutenant-Governor of Bengal in Council, shall have been extended: Provided [illegible] that no panchayat shall be appointed in any village until some officer exercising any of the powers of a Magistrate shall, in personal communication with the residents in such village, or some of them, have explained to them the general duties of a panchayat."

[e] As to the [illegible] of powers of a panchayat to the commissioners of a municipality in certain cases, see Ben. Act III of 1884, s. 364, *infra*.

[f] See *infra*.

Provided also that no panchâyat shall be appointed in any village until some officer exercising magisterial powers shall, in personal communication with the villagers, have explained to them the duties of a panchâyat, and shall have ascertained on the spot, by any means he thinks best to employ, the persons who, by reason of their local influence, in the opinion of the villagers, or for special reasons to be recorded by such magisterial officer, are most proper to be appointed members of the panchâyat:

Provided also that in every village to which this Act has already been extended the Magistrate shall, as soon as may be, ascertain, in the manner hereinbefore provided, the persons most proper to be appointed as members of the panchâyat, and shall appoint them accordingly.

Power to make unions of villages.

4. If two or more villages containing together not less than eighty houses are so situate that some house in one of such villages is situate within one mile of some house in each of the others, it shall be lawful for the Magistrate to form such villages into a union, and for the purposes of this Act such union shall be deemed to be a village.

Power to appoint panchâyat on application of villages.

5. Whenever the majority in number of the adult male residents in any village, or in two or more villages so situate as in section 4 is set forth, shall, by a writing signed by them, apply to the Magistrate of the district[a] for the appointment of a panchâyat in such village or villages, it shall be lawful for him to appoint a panchâyat under this Act in such village or villages without regard to the number of houses therein contained, and all the provisions of this Act shall apply to such panchâyat and to such village or villages.

Succession of member of panchâyat.

6.[b] Whenever any member of a panchâyat shall die or cease to be a member of such panchâyat, the Magistrate shall, by writing under his hand, call on the remaining members of the panchâyat to nominate within thirty days a fit and proper person to be appointed as member of the panchâyat in the room of such member so dying or ceasing to be a member, and the Magistrate shall, unless he considers such nomination improper, appoint the person so nominated to be a member of the panchâyat:

Provided that if no person shall have been so nominated, or if in the opinion of the Magistrate the person nominated is, for reasons to be recorded

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[a] Now District Magistrate—see Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

[b] This section has been substituted for the original s. 6 by Ben. Act I of 1886 (which does not apply to Assam), s. 3—see Ben. Act I of 1886, s. 3, *infra*. The original section is as follows:—

Succession to member of panchâyat.

"6. Whenever any member of a panchâyat shall die or cease to be a member of such panchâyat, the Magistrate of the district shall, by a sanad under his hand and seal, appoint some other person to be a member of such panchâyat in the place or stead of the person so dying or ceasing to be a member."

by him in writing, unfit to be appointed a member of the panchâyat, the Magistrate shall appoint a fit and proper person to be a member of the panchâyat.

Qualification of members of panchâyat.

7. No person shall be appointed to be a member of a panchâyat under this Act unless he be a resident in such village or the proprietor or holder of land therein or his local agent:

Provided that such proprietor or local agent shall not be so appointed unless he be resident within one mile from some part of such village.

Penalty on refusing to act as member of panchâyat.

8. If any person, appointed to be a member of a panchâyat, shall refuse to undertake the office, or wilfully omit to perform the duties thereof, and shall not within [a]thirty days[a] from the date of his appointment, or from such omission, show grounds to the satisfaction of the Magistrate for such refusal or omission, he shall be liable to a fine which may extend to fifty rupees:

Provided that every person who shall have paid any fine under the provisions of this section shall thereupon cease to be a member of the panchâyat and shall not be liable to be reappointed a member of panchâyat for the space of [a]three years[a] from the day of the payment of such fine.

Period for which panchâyat to be appointed.

9.[b] Every member of a panchâyat appointed under section 3 shall be appointed for the term of three years. Every member of a panchâyat appointed under section 6 shall be appointed only for a term equal to the unexpired portion of the term for which the member whom he succeeds was appointed.

Exemption from serving on panchâyat.

9A.[c] No member of a panchâyat, after the expiry of his term of office, shall be again appointed a member of a panchâyat without his consent till after the lapse of three years.

Appointment of fresh panchâyat.

9B.[c] On the expiry of the term for which the members of a panchâyat were appointed, the Magistrate shall appoint a new panchâyat in the manner prescribed in section 3, the outgoing panchâyat continuing to exercise all the functions of a panchâyat until such new panchâyat has been appointed.

Power to remove members.

10. It shall be lawful for the Magistrate of the district,[d] by an order in writing signed by him, to remove or discharge any member of a panchâyat.

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[a]-[a] These words in s. 8 have been substituted for the words "fifteen days" and "two years" respectively by Ben. Act I of 1886 (which does not apply to Assam), s. 4—see Ben. Act I of 1886, s. 4, *infra*.

[b] This section has been substituted for the original s. 9 by Ben. Act I of 1886 (which does not apply to Assam), s. 5—see Ben. Act I of 1886, s. 5, *infra*. The original section is as follows:—

Exemption from serving on panchâyat.

"9. It shall be lawful for any person who shall have served for the term of two years as a member of any panchâyat to retire from such panchâyat, and the person so retiring shall not without his own consent be appointed to serve on such panchâyat until after the expiry of two years from the date of such his retirement."

[c] Ss. 9A and 9B have been inserted by Ben. Act I of 1886 (which does not apply to Assam), s. 6—see Ben. Act I of 1886, s. 6, *infra*.

[d] Now District Magistrate—see Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

11. The panchâyat shall determine the number of chaukidárs to be employed in a village: **Number of chaukidárs to be determined by panchâyat.**

Provided that there shall be at least two chaukidárs appointed in every village in which there are one hundred and fifty houses, and one additional chaukidár for every complete number of one hundred houses beyond such number of one hundred and fifty.

12. The panchâyat shall from time to time determine the monthly salaries of the chaukidárs to be appointed: **Panchâyat to determine salaries of chaukidárs.**

Provided that such salaries shall not be less than three nor more than six rupees per month.

13. The panchâyat shall raise in each village, by a yearly assessment, the amount required for the pay of the chaukidárs, together with fifteen per cent. above such amount, in order to provide for payment of the expenses of collection and losses from the non-realization of the rate from defaulters. **Salaries to be raised by assessment.**

14. All owners or occupiers of houses in any village, and any zamindár who has within such village a kachahri for collecting rents, shall be liable to assessment for the purposes of this Act. **Persons liable to assessment.**

15. The rate to be levied in any village for the purposes of this Act shall be an assessment according to the circumstances and the property to be protected of the persons liable to the same: **Nature and amount of assessment.**

Provided that the amount to be assessed on any one person shall not be more than one rupee per mensem, and that all persons who, in the opinion of the panchâyat, are too poor to pay half an anna a month shall be altogether exempt from assessment under this Act.

16. The panchâyat shall, two clear months[a] before the first day of the year current in the village, make such assessment upon the several persons liable thereto, and shall enter the same in a list, which shall specify the name of each person liable to be assessed, the trade, business or other description of such person, and the amount payable monthly by such person, and such list shall be by them published in some conspicuous part of the village at least fifteen days before the expiry of the said two months. **Time and form of assessment.**

17. The panchâyat may, instead of making a new assessment, revise or continue the assessment of the current year, and the assessment so revised or continued shall be in like manner published. **Power to continue former assessment.**

18. Every assessment so made, revised or continued shall commence and take effect upon the first day of the year current in the village next ensuing the date of publication thereof, and shall remain in force for one year, and **Duration of assessment.**

[a] As to duty of panchâyat to make an assessment within one month of their appointment, see Ben. Act I of 1871, s. 2, *infra*, p. 169.

until some other assessment properly made or revised under the provisions of this Act shall commence and take effect.

Power to review assessment.

19. Any person dissatisfied with the amount at which he has been assessed may, within one month after any publication of any assessment, apply to the panchâyat, either orally or in writing, for a revision of the assessment, and the panchâyat may confirm the assessment or amend the same.

Magistrate may revise assessment.

20. No appeal, as of right, shall lie from any order passed by a panchâyat as regards the revision of any assessment; but the Magistrate may call for the general list of assessment in any village, and shall so call for such list on the application of ten rate-payers in such village, and may pass such orders on any list so called for as he may think proper.

Rate payable quarterly in advance.

21. Every rate to be payable under this Act shall be payable by equal quarterly[a] instalments; the instalment of rate on account of each quarter[a] shall be due on the first day of such quarter.[a]

Allowance for collecting rate.

22. Every panchâyat shall appoint one of their number to receive and collect the rate, and to grant receipts for the same and to keep the accounts thereof, and it shall be lawful for the panchâyat to permit the person so appointed to retain any sum not exceeding [b]ten per cent.[b] of the amount collected by him to repay the costs of such collection.

Constitution of chaukidâri fund.

23. The proceeds of every assessment to be levied under this Act in any village, together with any sum which may become applicable to the purposes of this Act, shall constitute a fund, which shall be called the chaukidâri fund of such village.

Application of surplus.

24. If at the end of any year any surplus of the fund may remain unexpended, such surplus shall be carried to the credit of the chaukidâri fund for the ensuing year, and the amount to be raised by assessment in such ensuing year may in such case be reduced by the amount of such surplus.

Payment of instalment to be made within seven days.

25. Every person liable to pay any sum assessed upon him under this Act shall, within seven days after the day upon which any instalment of rate may be payable by him, pay or tender such instalment to the person appointed by the panchâyat to receive the same.

List of defaulters to be made out.

26. Immediately after the tenth day of each quarter[a] the panchâyat of every village to which the provisions of this Act extend shall prepare a list of the persons who may have failed to pay their respective instalments of the

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[a] The words "quarterly" and "quarter" in ss. 21 and 26 have been substituted for the original words by Ben. Act I of 1871, s. 5—see that section, *infra*, p. 169.

[b-b] These words in s. 22 have been substituted for the words "six per cent." by Ben. Act I of 1886 (which does not apply to Assam), s. 7—see Ben. Act I of 1886, s. 7, *infra*.

rate for such quarter,[a] showing the amount due from each of such defaulters, and shall publish such list in some conspicuous part of the village.

Power to distrain for rates.

27. The collecting member of the panchâyat shall thereupon issue a writing in the form in schedule (A), signed by him, authorizing the chaukidár, or such other person as may be therein named, to levy, by the distraint and sale of a sufficient portion of the moveable property of such defaulters, the amount of their respective arrears, together with sums equal to such arrears respectively by way of penalty.

Manner of executing distress.

28. The person so authorized shall seize such moveable property of such respective defaulters as he shall deem sufficient, and shall make an inventory of all moveable property so seized, and shall at the same time give notice by beat of drum of the time and place where such moveable property shall be sold.

Such time of sale shall be not less than two days nor more than five days from the time of the proclamation thereof.

Sale in execution of warrant.

29. In case any defaulter shall not, within the time specified by such notice, pay the amount of such arrears payable by him, together with an equal amount by way of penalty, the moveable property distrained, or such portion of it as may be necessary, shall be sold by public outcry at the place and time specified, and the proceeds shall be applied in discharge of such amount and penalty, and the surplus, if any, shall be returned to the person in possession of the moveable property at the time of the seizure.

Objections to levy how to be made.

30. Whenever any person whose name may have been included in any list of defaulters may dispute his liability to pay the amount mentioned in such list or any portion thereof, he may apply to the Magistrate, either orally or in writing, stating the grounds of his objection, and the Magistrate shall examine his objection and pass such order thereon as to him shall seem proper.

Custody of property distrained.

31. Any property distrained under the provisions of section 28 shall remain in the custody of the chaukidár, or of some other person whom the panchâyat may appoint in that behalf.

What property may be distrained for rates.

32. All goods and chattels, except plough-cattle and tools and implements of trade or agriculture, found in or upon any house or land occupied by any defaulter, shall be deemed to be his property, and shall be liable to be distrained and sold for the recovery of the arrear.

If the goods and chattels distrained belong to any person other than the defaulter, the defaulter shall be liable to indemnify the owner of such goods and chattels for any damage he may sustain by reason of such distress, or by

[a] The word "quarter" in s. 26 has been substituted for the original word by Ben. Act I of 1871, s. 6—see that section, *infra*, p. 169.

reason of any payment he may make to avoid such distress or any sale under the same.

Distress not to be levied after a year.

33. No arrears of any rate payable under this Act shall be recovered by distress after the expiration of one year from the day on which the same shall have become due.

Irregularities not to avoid distraint.

34. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in any list, assessment, notice, summons, power, writing, inventory or other proceeding relating thereto, nor shall such party be deemed a trespasser from the commencement on account of any irregularity afterwards committed by him, but all persons aggrieved by such irregularity may recover full satisfaction for any special damage sustained by them, in any Court of competent jurisdiction, subject to the provisions of section 63 of this Act.

Appointment and dismissal of chaukidárs.

35. The panchâyat shall appoint the persons to be chaukidárs under this Act, and may, from time to time, with the sanction of the Magistrate, dismiss any such chaukidárs.

Appointment of chaukidárs to be registered by police.

36. On the appointment of any chaukidár the panchâyat shall give to him a certificate signed by them of such his appointment, specifying therein the rate of salary at which he has been appointed, and he shall within seven days produce such certificate at the police-station within the limits of which his village may be situate; and the officer in charge of such station shall cause the particulars of such certificate to be registered in a book to be kept in such station for the purpose of such registration, and shall report the same to the Magistrate.

Power of Magistrate to dismiss chaukidárs.

37. It shall be lawful for the Magistrate, if he think fit, to dismiss any chaukidár for any misconduct or neglect of duty.

Power to fine chaukidárs.

38. Every chaukidár who may be guilty of any wilful misconduct in his office, or neglect of his duty, such misconduct or neglect not being an offence within the meaning of the Indian Penal Code,[a] and not being of so grave a character as in the opinion of the Magistrate to require his dismissal from his office, shall be liable to a fine which shall not exceed the amount of one month's salary. XLV of 1860.

Duties of chaukidár.

39. Every chaukidár appointed under the provisions of this Act shall perform the following duties:—

1st, he shall give immediate information to the officer in charge of the police-station within the limits of which the village is situate of every un-

[a] See General Acts, 1834—36, 2nd Ed., p. 240.

natural, suspicious or sudden death which may occur, and of every offence specified in Schedule B of this Act which may be committed within the village of which he is chaukidár, and he shall further keep the police informed of all disputes which are likely to lead to any riot or serious affray;

2nd, he shall arrest all proclaimed offenders, and all persons whom he may find in the act of committing any offence specified in Schedule B of this Act;

3rd, he shall observe, and from time to time report to the officer in charge of the police-station within the limits of which the village may be situate, the movements of all bad characters in such village;

4th, he shall report to the officer in charge of such police-station the arrival of suspicious characters in the neighbourhood;

5th, he shall present himself at such station twice in each week, if such station be within two miles of the village, and if it be more remote once in each week or once in each fortnight as the Magistrate may direct;

6th,[a] he shall supply any local information which the Magistrate or any officer of police, or any other officer thereunto authorized by an order in writing of the Lieutenant-Governor, may require;

7th, he shall obey the orders of the panchâyat in regard to keeping watch in the village and other matters connected with his duties as chaukidár;

8th,[b] he shall assist the collecting member of the panchâyat in collecting the chaukidári assessment.

Procedure on arrest by chaukidárs.

40. Whenever the chaukidár may arrest any person, such chaukidár shall forthwith take the person so arrested to the police-station within the limits of which such village is situate:

Provided that, if the arrest is made at night, such person shall be so taken, as soon as convenient, on the following morning.

Control of chaukidárs by panchâyat.

41. The panchâyat shall exercise a general control over the chaukidárs, and every member of such panchâyat who may know or be informed of the commission within the village of any offence specified in Schedule B of this Act shall forthwith cause the same to be reported by the chaukidár to the officer in charge of the police-station within the limits of which the village may be situate, and, on failure of the chaukidár, such member shall himself report the same [c]or cause the same to be reported[c] to such officer.

Fines to be carried to chaukidári fund.

42. All fines and penalties levied under this Act shall be carried to the credit of the village chaukidári fund and be applied as a portion thereof.

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[a] This clause has been substituted for the original sixth clause by Ben. Act I of 1871, s. 6—see that section, *infra*, p. 169.

[b] The 8th clause of s. 39 has been added by Ben. Act I of 1886 (which does not apply to Assam), s. 8—see Ben. Act I of 1886, s. 8, *infra*.

[c-c] These words in s. 41 have been inserted by Ben. Act I of 1886 (which does not apply to Assam), s. 9—see Ben. Act I of 1886, s. 9, *infra*.

Mode of paying chaukidárs.

43.[a] Every chaukidár shall receive, quarter by quarter, the full amount of his salary from such officer or person as the Magistrate shall appoint.

Panchâyat to pay or remit quarterly amounts for payment of chaukidárs, &c.

44.[a] Within thirty days after the end of each quarter, every panchâyat shall pay or remit to such officer or person as the Magistrate may appoint under the last foregoing section a sum equal to the pay of the chaukidár for the quarter, or any smaller amount which may stand to the credit of the chaukidári fund of the village.

Mode of realising chaukidár's salary.

45. If it shall appear to the Magistrate that there is no money to the credit of the village chaukidári fund, and that the panchâyat shall not have taken sufficient steps to realize from defaulters the arrears due from them, the Magistrate [b]may issue his warrant[b] for the realization of the chaukidár's pay from the members of the panchâyat by distress and sale of their moveable property, and shall therein charge some person, therein named, with the execution thereof, and upon such warrant such proceedings shall be had as hereinbefore directed to be had on any writing issued for the recovery of any arrears of the tax by this Act directed to be levied; and the amount due to such chaukidár shall be paid to him out of the amount so levied, and the residue thereof, after payment thereout of all costs and expenses incurred in or about the execution of such warrant, shall be paid to the persons from whom such distress shall have been so levied.

[c]An application for the appointment of a tahsildár under section 46A shall not of itself be deemed a sufficient step to realize from defaulters the arrears due from them.[c]

Reimbursement of member of panchâyat by whom salary is paid.

46. Any member of a panchâyat, from or by whom any sum shall have been levied or paid under the provisions of the section last preceding, shall be reimbursed the amount so levied from or paid by him from any surplus of the village chaukidári fund which may remain at the end of the year in which such sum shall have been so levied or paid.

Appointment

46A.[d] The Magistrate may at any time, on the application of the panch-

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[a] These sections have been substituted for the original ss. 43 and 44 by Ben. Act I of 1886 (which does not apply to Assam), ss. 10 and 11, respectively—see Ben. Act I of 1886, ss. 10, 11, *infra*. The original sections are as follow :—

Mode of paying chaukidárs.

"43. Every chaukidár shall receive, month by month, the full amount of his salary from the member of the panchâyat appointed to collect the tax.

Application by chaukidár for payment of his salary.

"44 Whenever the salary of any month shall not be paid in full to any chaukidár on or before the 15th of the month following, such chaukidár may apply to the Magistrate, who shall call upon the panchâyat within ten days to show cause why they should not pay the amount due to such chaukidár."

[b] These words in s. 45 have been substituted for the words "shall issue his warrant" by Ben Act I of 1886 (which does not apply to Assam), s. 12—see Ben. Act I of 1886, s. 12, *infra*

[c] These words in s. 45 have been added by Ben. Act I of 1886 (which does not apply to Assam), s. 12— Ben Act I of 1886, s. 12, *infra*.

[d] S. 46A has been inserted by Ben. Act I of 1886 (which does not apply to Assam), s. 13—see Ben Act I of 1886, s. 13, *infra*.

áyat of any village, appoint a tahsildár in such village to assist the collecting member of such panchayat, and such tahsildár shall exercise all the powers vested in the panchayat for the collection of the chaukidári assessment, and the Magistrate shall, on a like application, revoke such appointment.

of tahsildár at request of panchayat.

46B.* Every tahsildár apppointed under the last foregoing section shall be remunerated at such rate and in such manner as the Magistrate may, from time to time, with the sanction of the Commissioner of the Division, prescribe; and such remuneration shall be levied from those who have failed to pay their chaukidári assessments in the same manner and in the same proportion as the chaukidári assessment:

Remuneration of tahsildár.

Provided that one tahsildár may, in the discretion of the Magistrate, be appointed for more than one village.

47. If it shall appear to the Magistrate that the deficiency of the funds to the credit of the village chaukidári fund has been caused by an erroneous assessment, the Magistrate shall call for the assessment and revise the same as he shall think proper, and shall remit the same to the panchayat, and such panchayat shall forthwith proceed to levy the sums respectively appearing to be due by such revised assessment.

Power to revise assessment.

PART II.

Chaukidári Chákarán Lands.

48. All chaukidári chákarán lands before the passing of this Act assigned for the benefit of any village in which a panchayat shall be appointed shall be transferred in manner and subject as hereinafter mentioned to the zamindár of the estate or tenure within which may be situate such lands.

Chaukidári chákarán lands to be transferred to zamindárs.

49. All lands so transferred shall be subject to an assessment which shall be fixed at one-half of the annual value of such land according to the average rates of letting land similar in quality in the neighbourhood of such land, and such assessment shall be made by the panchayat of the village.

Assessment to be fixed at one-half of value.

50. Such assessment when made by the panchayat shall be submitted to the Collector of the district, and he or any other officer exercising the powers of a Collector by him thereunto appointed may approve, or revise and approve, the same (provided that it shall be lawful for the zamindár to contest the assessment before it is so approved), and after such approval the Collector of the district shall, by an order under his hand in the form in Schedule C, transfer to such zamindár such land subject to the assessment so approved.

Collector to make transfer.

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* S. 46B has been inserted by Ben. Act I of 1886 (which does not apply to Assam), s 13—see Ben. Act I of 1886, s. 13, *infra*

Effect of transfer.

51. Such order shall operate to transfer to such zamindár the land therein mentioned subject to the amount of assessment therein mentioned, and subject to all contracts theretofore made, in respect of, under, or by virtue of, which any person other than the zamindár may have any right to any land, portion of his estate, or tenure, in the place in which such land may be situate.

Assessment to be permanent charge on lands.

52. The amount of the assessment mentioned in such order shall be a permanent yearly charge on such land, and shall be payable to the collecting member of the pancháyat yearly in advance on the first day of the year current in the village by the person for the time being entitled to recover the rents of such land from the occupier thereof.

Mode of realization.

53. Every such assessment shall be deemed to be a demand to be realized in the manner hereinafter provided.

Notice of arrear.

54. Whenever such assessment shall be in arrear for the space of fifteen days after it shall have become payable, the collecting member of the pancháyat shall forward to the Collector of the district in which the land so assessed is situate notice of the amount of such arrear and the name of the person liable to pay such assessment in the form in Schedule D annexed to this Act.

Mode and effect of sale.

55. Immediately after the receipt of the said notice the Collector or other officer authorized to hold sales under the law for the time being in force for regulating sales of land for arrears of revenue shall proceed without any preliminary notice for payment to issue a notification for sale under section 6 of Act XI of 1859,[a] passed by the Legislative Council of India, and, unless the arrears be paid within the time mentioned in such notification, shall sell such land according to the provisions of such law as if such land were an estate within the meaning of Act VII of 1868[b] passed by the Lieutenant-Governor of Bengal in Council; and all provisions of the law for the time being in force with respect to the sale of such estates shall apply to the sale of such land, and every such sale shall have such and the same force and effect as if the same were a sale of an estate for arrears of its own revenue, and such land shall be held by the purchaser thereof subject to such assessment, but freed from all other charges and incumbrances save those to which he would have been liable if the said land had been an estate sold for arrears of its own revenue.

Application of proceeds of sale.

56. Such Collector shall, out of the proceeds of such sale, after defraying the costs of and attending such sale, pay to the collecting member of the panchávat, within one week after such sale shall have become final, the

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[a] See Vol. I, p 382.

[b] See *supra*, p. 116.

amount due for arrears of such assessment, and pay the balance of such proceeds to the person named in the notice from the collecting member of the panchâyat as the person liable to pay the assessment of such land.

Right to service from occupier of transferred land to cease

57. When any land shall have been transferred to any zamindár under the provisions hereinbefore contained, the right to the performance of any services to any person by the occupier of such lands in respect of his occupation thereof shall wholly cease and determine.

Lieutenant-Governor of Bengal may appoint commission.

58. In any district or part of a district in which may be situated lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police, it shall be lawful for the Lieutenant-Governor of Bengal, by an order to be published in the Calcutta Gazette, to appoint a commission, consisting of one or more persons, to ascertain and determine the chaukidári chákarán lands and other lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police in such district.

Power to refer to commission question relating to chákarán land.

59. Whenever in any district in which such commission shall have been appointed any question shall arise whether any or what lands are chaukidári chákarán lands, or other lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police, it shall be lawful for such commission to inquire into such question.

Powers of commission.

60. In inquiring into such question the commission shall, as far as may be necessary for the purposes of this Act, exercise all such and the same powers as are conferred by Regulation VII of 1822 * and the Regulations and Acts amending the same upon a Collector making a settlement of land-revenue.

Duties of commission and effect of their order.

61. Such commission shall demarcate the boundaries of any lands which they may determine to be chaukidári chákarán lands or other lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police, and shall make orders under their hand setting forth the land which they shall have determined to be chaukidári chákarán lands or other lands as aforesaid, and the boundaries thereof, and the name of the village for the benefit of which such lands are assigned, and distinguishing whether such lands be or be not chaukidári chákarán lands or other lands as aforesaid.

Every such order shall be final and conclusive respecting all matters hereinbefore required to be set forth in such order so far as the same shall be therein set forth.

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* See Vol. I, p. 179.

PART III.

Miscellaneous Provisions.

Powers of panchâyat may be exercised by Magistrate.

62. All powers vested in the panchâyat for the appointment and dismissal of chaukidárs, and for fixing the number of chaukidárs to be appointed, and the rate of their pay, and for making and levying the assessments hereinbefore directed to be made, may be exercised by the Magistrate or any person whom the Magistrate may by any writing under his hand authorize in that behalf, in case the panchâyat shall, for fifteen days after a notice from the Magistrate to exercise such powers or any of them, refuse or neglect to exercise the same.

Indemnity-clause.

63. No action shall be brought against the Magistrate nor against any panchâyat, nor against any member thereof, nor against any of his or their officers, nor against any person acting under his or their direction, for anything done or professing or purporting to be done under this Act, until the expiration of one month next after notice in writing shall have been delivered or left at the office of the Magistrate and at the place of abode of such person, explicitly stating the cause of action, and the name and place of abode of the intended plaintiff; and, unless such notice be proved, the Court shall find for the defendant, and every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards, and, if any person to whom any such notice of action is given shall before action brought tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Control vested in Commissioners of Circuit.

64. The Commissioner of Circuit shall have a general controlling power over all proceedings of panchâyats and Magistrates and Magistrates of districts* under this Act.

Rules for guidance of panchâyat.

65. The Lieutenant-Governor of Bengal may, from time to time, frame rules for the guidance of the panchâyats, for regulating the practice and procedure of any commission in trying or determining any question referred to them, and for any other purposes connected with this Act, and may, from time to time, alter, vary or revoke the same, and shall publish every such rule or alteration, variation or revocation of a rule in the Calcutta Gazette, and the rules for the time being in force shall, from their publication, have such and the same force and effect as if they were herein enacted.

Duty of zamindárs to report crimes not affected.

66. Nothing in this Act contained shall diminish or in any way affect any liability, duty or obligation of any zamindár under any law in force at the time of the passing of this Act to report crimes or offences occurring within his estate or tenure.

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* Now District Magistrates—see Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

67. Nothing in this Act contained, save the provisions of sections 58, 59, 60 and 61, shall affect any lands before the passing of this Act assigned for the maintenance, in any village in which a panchâyat may not be appointed, of an officer to keep watch in such village and to report crime to the police, and every such officer in such village shall be bound to perform the same duties, and shall have the same rights unto such lands, and may be removed and a successor to him appointed, as if this Act had not been passed. Village watch where panchâyat not appointed, not affected.

68. This Act shall commence and take effect in those districts or subdivisions of districts* in the provinces subject to the Lieutenant-Governor of Bengal to which the said Lieutenant-Governor shall extend it by an order published in the Calcutta Gazette, and thereupon this Act shall commence and take effect in the districts and subdivisions of districts named in such order, on the day which shall be in such order provided for the commencement thereof. Commencement.

69. This Act may be called the Village Chaukidári Act, 1870. Short title.

SCHEDULE A (*referred to in section 27*).

Form of Distraining Warrant.

Act VI of 1870.

VILLAGE CHAUKIDÁRI FUND.

On behalf of the panchâyat of ( ). Whereas the several persons named in the list at foot hereof have made default in payment to the said panchâyat of the sums in the said list set opposite to their respective names, you are hereby authorized and required to levy by distress and sale of a sufficient portion of the moveable property of the said defaulters the said several sums set opposite to their respective names, together with additional sums by way of penalty respectively equal to the sums set forth.

Dated day of 18 .

(*Sd.*) *R. B.*,
Collecting Member.

Name and description.	Amount.	When due.	Penalty.
B. G.	1-0	1 Baisákh	1-0
K. B.	0-2	1 „	0-2

SCHEDULE B (*referred to in sections 39 and 41*).

Offences to be reported and for which Chaukidár may arrest.

Murder; culpable homicide, rape, dacoity, robbery, theft, mischief by fire,

* For list of places to which this Act has been extended, see Appendix.

house-breaking, counterfeiting coins, causing grievous hurt, riot and all attempts and preparations to commit, and abetments of, the said offences.

SCHEDULE C (*referred to in section 50*).

Form of Transferring Order.

District of

I, Collector of
do by this order under my hand made in pursuance of Act VI of 1870, passed by the Lieutenant-Governor of Bengal in Council, transfer to
zamindár of , the chaukidári chákarán lands of the village of
in the said bounded and containing bighás kátás: to hold unto the said his heirs and assigns subject to the annual assessment of rupees payable under the provisions of the said Act to the chaukidári fund of the said village, and also, subject to all contracts binding the said in respect of any lands, portion of the said situated within the said village.

The day of 18

(*Sd.*) *J. S.,*
Collector of

SCHEDULE D (*referred to in section 54*).

Form of Notice of Arrears of Assessment on Land.

Panchâyat of

. To *A. B.*, Esq., *Collector of*

Sir,

I hereby notify to you that the sum of rupees being for one year's assessment payable in respect of the chaukidári chákarán lands of this village transferred to the zamindár of became due on the day of and that the same is still unpaid, and that of is the person liable to pay such assessment.

The day of

(*Sd.*) *R. F.,*
Collecting Member of Panchâyat.

ACT No. I OF 1871.[a]

Received the Lieutenant-Governor's assent on the 7th January, 1871, and the Governor General's assent on the 16th idem.

An Act to amend the Village Chaukidári Act, 1870.[b]

Preamble.

WHEREAS it is expedient to amend the provisions of the Village Chaukidári Act, 1870; It is enacted as follows:—

n. VI of 70.

Act not to apply till chaukidár appointed.

1. Nothing in the said Act shall be held to repeal the provisions of section 21, Regulation XX of 1817,[c] in any village or union until a chaukidár shall have been appointed therein under the provisions of the said Act.

Panchâyat in certain cases to make assessment within one month.

2. Whenever a panchâyat shall have been appointed in any village, the Magistrate may direct that such panchâyat shall, within one month after their appointment, make an assessment for the residue of the year according to the year current in the village upon the persons liable to the payment of the chaukidári rate in such village, and shall enter the same in a list containing the particulars required to be set forth in the list mentioned in section 16 of the said Act.

Such list shall, on its completion, be forthwith published in some conspicuous part of the said village.

Commencement of assessment.

3. Every assessment so made shall commence and take effect upon the expiration of fifteen days from the publication of such list.

Effect of assessment.

4. Every such assessment shall be deemed to be an assessment made in pursuance of the provisions of the said Act, and the amounts thereby assessed may be collected and enforced accordingly.

Rate payable quarterly instead of monthly.

5. In section 21 of the said Act VI of 1870, the word "quarterly" shall be substituted for the word "monthly," and in sections 21 and 26, the word "quarter" shall be substituted for the word "month" wherever such word occurs in the said sections; and the said sections shall be read and construed as if the words hereby directed to be substituted had been originally inserted in place of the words for which they are hereby respectively directed to be substituted.

New clause substituted in section 39 of Ben. Act VI of 1870.

6. In section 39 of the said Act, the following clause shall be substituted for clause 6 thereof:—

[See *supra*, p. 161.]

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[a] This Act has been declared in force, under s. 3 of the Scheduled Districts Act, 1874, in the District of Manbhoom and Pergunnah Dhalbhoom—see Vol. I, p. 677. It has been extended, under s. 5 of the same Act, to the District of Goálpára—see Appendix to Assam Supplement.

[b] See *supra*, p. 153.

[c] See Vol. I, p. 134.

and the said section shall be read and construed as if the said clause had been originally inserted therein in place of the clause for which it is hereby directed to be substituted.

Construction. 7. This Act shall be read with, and as part of, the said Act VI of 1870.

ACT No. II OF 1871.[a]

Received the Lieutenant-Governor's assent on the 7th January, 1871, and the Governor General's assent on the 16th idem.

An Act to amend the procedure for the recovery of arrears of land-revenue in respect of tenures not being estates.

Preamble. WHEREAS it is expedient to amend the procedure for the recovery of arrears of land-revenue in respect of tenures not being estates; It is enacted as follows:—

Construction. Act VII of 1868 passed by the Lieutenant-Governor of Bengal in Council shall be read and construed as if in place of section 11 thereof the following section were inserted and substituted:—

11. [See *supra*, p. 119.]

ACT No. IV OF 1871.[b]

Received the Lieutenant-Governor's assent on the 20th March, 1871, and the Governor General's assent on the 28th idem.

An Act for the better sanitation of Pooree and other towns in Orissa and regulation of lodging-houses therein.

Preamble. WHEREAS it is expedient to make provision for the licensing and regulation of pilgrims' lodging-houses at Pooree and on the main lines of road leading to Pooree, and for the better sanitation of Pooree and other towns in Orissa; It is enacted as follows:—

Interpretation. 1. The words and expressions following shall, in this Act, have and bear the meanings and construction hereby assigned to them, unless there be some-

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[a] Ben. Act II of 1871 has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2.

The Act has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. I of 1886, s. 2, in Assam Supplement.

[b] Ben. Act IV of 1871 has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2.

For power of Lieutenant-Governor of Bengal to extend this Act, as amended by Ben. Act II of 1879, or any part of it, to places to or through which people go on pilgrimage and to the lines of road leading thereto, see Ben. Act II of 1879, s. 3, *infra*.

thing in the subject or context repugnant to such meaning or construction, that is to say :—

the word "lodger" shall mean an inmate liable to pay hire for accommodation in any house: "Lodger."

the word "owner" shall mean the person entitled to the immediate possession of any house: "Owner."

the expression "lodging-house" shall mean a house licensed under this Act for the reception of lodgers: "Lodging-house."

the expression "keeper of a lodging-house" shall mean the person to whom a license for the reception of lodgers in any house under this Act shall be granted: "Keeper of a lodging-house."

the expression "the Magistrate" shall mean the Magistrate of the district[a] of Pooree or of any other district or part of a district to which this Act may be extended, or other officer in charge of the office of such Magistrate, or specially invested with power under this Act: "The Magistrate."

the expression "the Health Officer" shall mean the person whom the Lieutenant-Governor of Bengal shall appoint under this Act. "The Health Officer."

2. The Lieutenant-Governor of Bengal is hereby empowered to appoint a Health Officer to control and direct the sanitation and conservancy of the town of Pooree[b] and of the main lines of road leading thereto. Appointment of Health Officer.

3. From and after the passing of this Act it shall be lawful for the Magistrate, upon the application of the owner of any house in the town of Pooree,[b] to grant to such applicant a license for the reception of lodgers in his said house, if the Magistrate be satisfied that such house is fit to be used as a lodging-house. Power to Magistrate to grant license.

4. The application for such license as in the preceding section is mentioned shall be in writing, and shall be in the form set forth in Schedule A of this Act, and shall be subscribed and verified by the applicant at the foot or end thereof in the manner provided by law for the verification of plaints. Form of application for license.

The license for the reception of lodgers to be granted by the Magistrate under this Act shall be in the form set forth in Schedule B of this Act. Form of license.

5. The Health Officer shall, when required by the Magistrate or the owner of any house, certify to the Magistrate the sanitary state and condition of such house, and the nature and extent of the accommodation which such house is capable of affording to lodgers. Health Officer when required to report upon lodging-house.

6. No license for the reception of lodgers shall be granted under this Act Restrictions

[a] Now District Magistrate—see Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

[b] In places to which this Act has been extended under the provisions of Ben. Act II of 1879, s. 3, substitute in ss. 2 and 3 for "Pooree" the name of the place concerned—see Ben. Act II of 1879, s. 3, *infra*.

on power of granting license.

by the Magistrate, unless the Health Officer shall certify in writing under his hand to the Magistrate that in his judgment the house, for the licensing of which for the reception of lodgers application shall have been made as aforesaid, is sufficiently ventilated, and has, within a reasonable distance from such house, a sufficient supply of water fit for human consumption, and also sufficient privy-accommodation, and is otherwise fit for the reception of lodgers.

The said Health Officer shall also certify to the Magistrate the largest number of lodgers which such house can, having regard to the number of persons permanently residing therein, accommodate with safety to the health of such lodgers; and no license under this Act shall be granted by the Magistrate for the reception in any house of any number of lodgers in excess of the number of lodgers which the Health Officer shall have so certified as aforesaid to be the largest number which such house could accommodate with safety to the health of such lodgers.

Fine on lodging-house keeper not taking out license.

7. After the passing of this Act every owner of any house in the town of Pooree[a] not licensed as a lodging-house under this Act, who shall suffer or permit any lodger to be an inmate of such house, shall be punished by a fine not exceeding two rupees for every lodger for each[a] night during any part of which such lodger shall be an inmate of such house.

Fee for Health Officer's certificate, and for license.

8. There shall be charged upon every certificate of the Health Officer, issued upon an application therefor by the owner of any house, a fee of one rupee; and upon every license, a fee, calculated at the rate of eight annas[a] for each person, upon the entire number of lodgers mentioned in such license shall be payable.

Duration of license.

9. Every license under this Act shall, unless revoked or suspended, continue and be in force for twelve calendar months from the day of its date.

Power to inspect lodging-houses.

10. It shall be lawful for the Magistrate or the Health Officer, or for any other person whom the Magistrate shall by any writing thereunto authorize, at any reasonable time to enter into any lodging-house, and to inspect and examine the same and every part thereof, not being in the exclusive use and occupation of women, who, according to the custom and manners of the country, ought not to be compelled to appear in public.

Provided always that if, in the judgment of the Magistrate, such reason shall exist as to necessitate an entry into, and inspection and examination of, such apartments so exclusively used and occupied by such women as aforesaid, it shall be lawful for the Magistrate, upon reasonable notice of such his intention being affixed to the house in which such women are residing, to enter

[a] In places to which this Act has been extended under the provisions of Ben. Act II of 1879, s. 3, substitute in s. 7 for "Pooree" the name of the place concerned, and insert after "each" the words "day or": also substitute in s. 8 for "the rate of eight annas" the words "a rate not exceeding one rupee"—see Ben Act II of 1879, s. 3, *infra*.

into and inspect and examine, or to authorize under his hand any other person to enter into and inspect and examine, such apartments of such women as aforesaid.

Power to exempt lodging-house from inspection.

11. It shall be lawful for the Magistrate to exempt from inspection the house or portion of a house occupied by any lodger, so long as they shall be occupied by such lodger, or until further order by the Magistrate.

Keeper of lodging-house to produce license.

12. Every keeper of a lodging-house shall produce to the Magistrate, or any officer by the Magistrate authorized to demand the same, the license of such house, whenever he shall be thereunto required by the Magistrate or such officer.

Keeper of lodging-houses to report accidents, deaths and sickness, and names of persons in lodging-houses.

13. Every keeper of a lodging-house shall make a report, to the person in charge of the nearest police-station, of each birth, death or grave accident, or serious sickness which may occur in the lodging-house of which he is keeper, forthwith after such birth, death or accident or sickness shall have occurred; and shall also, every day, during such periods of the year as the Magistrate shall from time to time appoint, before noon, make a report in writing to the person in charge of such station, stating the number of persons who shall have been inmates of such lodging-house during the preceding night, and distinguishing in such list males from females and adults from children.

Lodging-house keepers to exhibit number of house.

14. Every keeper of a lodging-house shall exhibit, and keep exhibited, on a conspicuous portion of the front of such house, the number of the license of such house, and the number of lodgers which such person is licensed to accommodate, plainly and legibly set forth [a]in Bengali and Uriya characters.[a]

Report to be kept of inspection and examination of lodging-house.

15. Upon the inspection and examination of any lodging-house, the Magistrate or Health Officer or other person authorized as aforesaid to make such inspection and examination shall record in a register-book to be kept for that purpose a succinct report of the result of such inspection and examination.

Statement under Act be true.

16. Every person who shall make any application, statement or report, in pursuance of the provisions of this Act, shall be deemed to have been bound by express provision of law to state the truth therein.

Penalties.

17. Every keeper of a lodging-house in which there shall be, at any time, a number of inmates in excess of the aggregate number of inmates resident in such house at the date of the application for the license thereof and of the number of lodgers mentioned in such license, or a number of lodgers in excess of the number of lodgers mentioned in such license, or who shall suffer or permit any person, other than a member of his family or a servant in his actual employ, to be an inmate of his house after the revocation or during the

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[a-a] In places to which this Act has been extended under the provisions of Ben. Act II of 1879, s. 3, substitute in s. 14 for these words, the words "in the character of the vernacular of the district"—see Ben. Act II of 1879, s. 3, *infra*.

suspension of his license, or who shall refuse or neglect without reasonable cause, within one hour after demand, to produce to the Magistrate or other officer as aforesaid the license for his said lodging-house when he shall be thereunto required, or who shall omit, without like reasonable cause, to make such report as by section 13 of this Act he is required to make, or to expose or keep exposed the number of his license, and the number of lodgers he is licensed to accommodate as hereinbefore is required, shall be liable to be punished by a fine not exceeding fifty rupees for every such offence.

Persons in charge of lodging-houses responsible.

18. Whenever the keeper of any lodging-house shall not be actually in charge thereof, then the person who shall be actually in charge thereof shall, as well as the keeper thereof, be liable to the penalties hereby provided for any infraction of the provisions of this Act.

Determination of offences.

19. All offences against this Act shall be heard and determined according to the provisions of Chapter XX of the Code of Criminal Procedure, 1882,[a] and the provisions applicable to summons cases. X of 1882.

Power to revoke or suspend licenses.

20. It shall be lawful for the Magistrate to revoke or suspend any license granted under this Act to the keeper of any lodging-house who, after the grant of such license, shall have been convicted of any offence against the provisions of this Act, or whose house shall have been certified by the Health Officer to have become unfit or unsafe for occupation as a lodging-house.

Power to reduce number of lodgers for which license is granted.

21. It shall be lawful for the Magistrate, when it shall be proved to him that any licensed lodging-house is unfit for the accommodation of the number of lodgers mentioned in the license, to reduce the number of lodgers mentioned in the license thereof to such number as may be able to obtain suitable accommodation in such house, and to enter in the license of such house such diminished number.

Fees and fines recoverable under Act to go towards sanitary improvement.

22.[b] All fines and fees under this Act shall be expended in the sanitary improvement of all or any of the towns or places in which this Act may be in force, or in the sanitary improvement of pilgrim halting-places or the roads leading to such towns or places, in such manner as the Lieutenant-Governor of Bengal may from time to time direct.

Applications to be in writing.

23. All applications to the Magistrate or Health Officer under this Act shall be made in writing.

Depositing

24.[c] Whoever deposits, or permits his servants to deposit, any dust, dirt,

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[a] See Act X of 1872, s. 2 and Sch. V; also Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

[b] This section has been substituted for the original s. 22 by Ben. Act II of 1879, s. 3—see Ben. Act II of 1879, s. 4, *infra*.

[c] Ss. 24 to 34 have ceased to be in force in every municipality under the Bengal Municipal Act, 1876—see Ben. Act V of 1876, s. 2. Ben Act V of 1876 has been repealed by Ben. Act III of 1884, but see ss. 2, 3 and 8 of the latter Act, *infra*.

dung, ashes or refuse, or filth of any kind, or any animal-matter, or any broken glass or earth-ware or other rubbish, in any public highway, except in such convenient spots, and in such manner, and at such hours as shall be fixed by the Magistrate with the assent of the Health Officer, or throws or puts, or permits his servants to throw or put, any such substance into any public sewer or drain, or into any drain communicating therewith, shall be liable to a fine not exceeding ten rupees.

dirt, &c., in highways and sewers.

25.* Whoever causes or allows the water of any sink or sewer, or any other offensive liquid matter belonging to him or being on his land, to run, drain or be thrown or put upon any public highway, or causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface-drain in any such highway, shall be liable to a fine not exceeding ten rupees.

Permitting offensive matter to run into drains or upon highways.

26.* The Magistrate may give notice to the owner or to the occupier of any land to cut and trim any hedges or trees which overhang any public highway so as to obstruct the passage, or to interfere with the free circulation of air.

Notice to cut trees.

27.* Whoever, being the occupier of a house in or near any public highway, keeps or allows to be kept for more than twenty-four hours, otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil or filth, or any noxious or offensive matter, in or upon such house, or in any out-house, yard or ground attached to and occupied with such house, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to cleanse the same, shall be liable to a fine not exceeding fifty rupees.

Penalty on occupier of house not removing filth.

28.* Whoever being the owner or keeper of any cattle, sheep or pigs, suffers the stall, pen or place in which they are kept, in or near any public highway, to be in a filthy or noxious state, or neglects to employ proper means to remove the filth therefrom, shall be liable to a fine not exceeding twenty rupees, and to a fine not exceeding three rupees for every day after conviction for such offence during which the offence is continued.

Keeping cattle near highways.

29.* The Magistrate may license such necessaries for public accommodation as he from time to time may think proper; and whoever shall keep any public necessary without such license, or, having a license for a public necessary, shall suffer the same to be in a filthy or noxious state, or shall neglect to employ proper means for cleansing the same, shall be liable to a fine not exceeding fifty rupees, and such license may be withdrawn.

Power to license public necessaries.

30.* Whoever, being the owner or occupier of any private drain, privy or cesspool, shall neglect or refuse, after warning from the Health Officer, to keep the same in a proper state, shall be liable to a fine not exceeding fifty rupees.

Clearing drains and cesspools.

31.* It shall be lawful for the Magistrate, with the assent of the Health

Power to set

* As to repeal of ss. 25-31, see last foot-note on preceding page.

apart tanks for domestic use.

Officer, to appropriate to the domestic use of the inhabitants of Pooree, or of any other towns to which this Act may be extended, any tank not being a private tank; and whoever shall bathe in any tank so appropriated to the domestic use of the inhabitants of the place, or shall wash or cause to be washed therein any animal, or any wool, cloth or wearing-apparel, or any utensils for cooking or other purposes, or leather or the skin of any animal, or any foul or offensive thing, or shall put or cause to enter therein any animal, or any gravel, stone, dirt or rubbish, or any dirt, filth or other noxious thing, or shall cause or suffer to run, drain or be brought thereunto the water of any sink, sewer, drain or any other unwholesome or offensive liquid, or shall do anything whatsoever whereby the water in any such tank shall be in any degree fouled or corrupted, shall be liable to a fine not exceeding fifty rupees.

Notice to drain and clear vegetation.

32.[a] Whenever any lands or premises being private property or within any private enclosure appear to the Health Officer to be, by reason of thick or noxious vegetation or want of drainage, in a state injurious to health or offensive to the neighbourhood, it shall be lawful for the Magistrate to require, by notice in writing, the owner or occupier of the premises to clear and remove such vegetation, or drain such premises.

Power to drain tanks, &c.

33.[a] The Magistrate may from time to time, as he may see fit, drain off into any sewers, and cleanse and fill up or otherwise abate, any stagnant pool, ditch, tank, pond or other receptacle of water which shall appear to the Health Officer to be useless or unnecessary, or likely to prove injurious to the health of the inhabitants, whether the same be or be not within any private enclosure or be or be not the private property of any person.

Power to perform works of which notice is given.

34.[a] In case any person to whom any notice, warning or order under the provisions of sections 26, 30 or 32 shall be given shall, without sufficient reason, for eight clear days after service upon him of such notice or order, neglect or refuse to comply therewith, or shall not proceed with due diligence in the completion of the works thereby required, it shall be lawful for the Magistrate to cause to be performed the works in or by such notice required to be performed, and for that purpose to enter into or upon, and to cause workmen and servants to enter into and upon, lands belonging to, or in the occupation of, such person, and to do all things needful or useful to the performance of such works, and the Magistrate shall make an order under his hand certifying the expense incurred in or about the performance of such works and ordering the payment of such amount by the owner or by the occupier of the

[a] As to repeal of ss. 32-34, see last foot-note on page 174, *supra*.

lands on which such works may have been performed, and such amount may be recovered from the person named therein as if it had been a fine for an offence against any of the provisions of this Act.

Service of notices.

35. Every notice, warning, order or summons, under any of the preceding sections of this Act, may be served personally upon the person to whom the same is addressed, or may be served by leaving the same at his usual or last known place of abode with some adult male member or servant of his family, or, if it cannot be so served, may be served by being put up on some conspicuous part of such place of abode.

If such notice, warning, order or summons relates to any house, building or land, and the place of abode of the person whom it is intended to affect by such notice, warning, order or summons is unknown, or is not within the town in which such house, building or land is situate, the same shall be deemed to be duly served if put up in some conspicuous part of the house, building or land to which the same relates.

Indemnity-clause.

36. No action shall be brought against the Magistrate, nor against the Health Officer, nor against any of his or their officers, nor against any person acting under his or their direction, for anything done or professing or purporting to be done under this Act, until the expiration of one month next after notice in writing shall have been delivered or left at the office of the Magistrate or at the place of abode of such person, explicitly stating the cause of action, and the name and place of abode of the intended plaintiff; and, unless such notice be proved, the Court shall find for the defendant, and every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards; and, if any person to whom any such notice of action is given shall, before action brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Power to make bye-laws.

37. It shall be lawful for the Magistrate, with the assent of the Health Officer, and the Civil Surgeon of the district if he be not the Health Officer, to make bye-laws, and to repeal, alter and amend the same subject to the confirmation hereinafter mentioned, for the management of all matters connected with the conservancy of the town of Pooree or of any other town to which this Act may be extended, and for regulating the encampments, lodging and halting places of pilgrims on their journey to or from Pooree or such other town as aforesaid, and for preventing the spread of epidemics amongst such pilgrims while at Pooree or such other town as aforesaid, or on the journey thereto or therefrom, and to affix fines as penalties for the infringement of such bye-laws:

Provided that no bye-law shall be repugnant to any law in force, and that

no fine for any one infringement of a bye-law shall exceed twenty rupees, and that in case of a continuing infringement no fine shall exceed five rupees for every day after notice from the Magistrate of such infringement.

Bye-laws to be confirmed by Lieutenant-Governor.

38. No bye-law or alteration of a bye-law shall have effect until the same shall have been approved and confirmed by the Lieutenant-Governor of Bengal, and shall have been published for such length of time and in such manner as the Lieutenant-Governor of Bengal shall order.

Provision for extending Act to Bhubanessar or Jajipore.

39. It shall be lawful for the Lieutenant-Governor of Bengal, from time to time by order published in the Calcutta Gazette, to extend the provisions of this Act or any part of it to Bhubanessar and to Jajipore, or to any of the towns or villages in Orissa used as pilgrim-stages or to any villages in Orissa on the line of road habitually traversed by pilgrims, and this Act shall commence and take effect in Pooree upon the first day of June, 1871, and in any other place to which it may be extended for such time as shall be in that behalf appointed in the order extending the same, or in any other order in like manner published.

Short title.

40. This Act may be called the Pooree Lodging-house Act, 1871.

SCHEDULE A.

Application for License.

I, , the owner of house No. , in the town of , hereby request that a license may be granted to me, under the provisions of Act No. IV of 1871 of the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations, for the reception of lodgers in my said house.

1	2	3	4	5	6	7
Name of the street in which the house is situated, or other sufficient description of its locality.	Name of owner applying for license.	Whether sole owner of house or not.	Whether applicant has been previously convicted of any offence against the provisions of this Act, or not.	Number of lodgers applicant desires to obtain license for accommodating in his said house.	Number, description and size of apartments in which applicant desires to accommodate lodgers.	Number of inmates now residing in applicant's said house.

I, , the above-named, do declare that what is stated in the above application for a license is true to the best of my information and belief.

(*Signature*) _____

SCHEDULE B.

LICENSE.

A. B., , the owner of house No. , in the town of Pooree,[a] is hereby licensed to receive lodgers in his said house in apartments thereof, subject to the provisions of Act No. IV of 1871 of the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations.

The registered number of this license, upon which a fee of rupees has been paid, is No.

(*Signature*)
Magistrate of District.

ACT No. VII OF 1871.

Received the Lieutenant-Governor's assent on the 19th April, 1871, and the Governor General's assent on the 10th May, 1871.

An Act to amend the Calcutta Port Improvement Act, 1870.[b]

WHEREAS it is expedient to increase the number of the Commissioners for making improvements in the port of Calcutta, and to enable the Commissioners to compel ships to load or unload at their jetties as may be deemed by them most suited to the requirements of the port; It is enacted as follows:— Preamble.

Ben. V of 1870.

1. In the second section[c] of the Calcutta Port Improvement Act, 1870, the words "persons in number not more than twelve nor less than nine" shall be substituted for the words "nine persons;" and the said section shall be read and construed as if the words hereby directed to be substituted therein had been inserted therein in the place and stead of the words for which they are hereby directed to be substituted. Increase in number of Commissioners.

2. In the sixty-second section of the said Act, the words "or for landing or for shipping" shall be inserted after the words "landing and shipping" wherever the same words occur in the said section; and the same section shall be read and construed as if the words hereby directed to be inserted therein had been originally therein inserted. Power to confine wharves either to landing or shipping goods.

3. The Commissioners may by notice in writing order the master, owner or agent of any vessel to remove such vessel from any wharf, quay, stage, jetty or pier belonging to the Commissioners, and unless such vessel shall be removed therefrom within thirty-six hours after service of such notice on the Power to require vessels to remove from wharves

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[a] In places to which this Act has been extended under the provisions of Ben. Act II of 1872, s. 3, substitute in Sch. B for "Pooree" the name of the place concerned—see Ben. Act II of 1872, s. 3, *infra*.

[b] See *supra*, p 130.

[c] S. 2 of Ben. Act V of 1870 has since been repealed by Ben. Act III of 1887.

officer in charge of such vessel, or the master, owner or agent thereof, it shall be lawful for the Commissioners to charge in respect of such vessel, for the use by such vessel of such wharf, quay, stage, jetty or pier, such sum not exceeding fifty rupees for each day of twenty-four hours or portion of such day, after the expiry of such thirty-six hours during which such vessel shall remain at such wharf, quay, stage, jetty or pier, as to the Commissioners shall seem fit.

Construction.

4. This Act shall be construed with, and as part of, the said Calcutta Port Improvement Act, 1870.[a] Ben V of 1870.

ACT No. IX OF 1871.[b]

Received the Lieutenant-Governor's assent on the 3rd June, 1871, and the Governor General's assent on the 17th idem.

An Act for the construction of a bridge across the river Hooghly between Howrah and Calcutta.

Preamble.

WHEREAS it is expedient that a bridge should be constructed across the river Hooghly between Howrah and Calcutta; It is enacted as follows:—

Interpretation.

1. The following words and expressions shall have the meanings hereby assigned to them, unless where a contrary intention shall appear from the context:—

"Commissioners."

the word "Commissioners" shall mean the Commissioners for making improvements in the port of Calcutta incorporated by Act V of 1870,[a] passed by the Lieutenant-Governor of Bengal in Council.

Magistrate.

"Magistrate" includes a Justice of the Peace for Calcutta and any person exercising all or any of the powers of a Magistrate.

Power to make bridge.

2. It shall be lawful for the Lieutenant-Governor of Bengal to cause a bridge to the constructed across the river Hooghly between Calcutta and Howrah, at such place at or near Armenian Ghát as he may select, and also such ways and approaches to such bridge as he shall deem necessary, and to cause to be maintained such bridge and approaches.

Power to charge tolls.

3. The said Lieutenant-Governor shall form a scale of tolls, fees and charges for the use of the said bridge, and may from time to time vary such scale; and such tolls, fees and charges shall be leviable in respect of the several matters mentioned in the schedule hereto annexed:

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[a] See *supra*, p. 1[illegible]

[b] Ben. Acts III of 1880 and III of 1888 are to be taken as part of this Act—see those Acts, *infra*.

For power of Commissioners to own and run steam and other vessels in the service of the bridge, see Ben Act III of 1880, s. 2, *infra*.

[a] Provided always that such tolls, fees and charges shall not exceed the respective rates mentioned in the said schedule, and that it shall be lawful for the Lieutenant-Governor from time to time to exempt all or any passengers, animals, vehicles and goods using or conveyed on the said bridge from payment of the tolls, fees and charges prescribed in the said schedule.[a]

Power to levy fees.

4. Towards meeting the charges incurred in the construction and maintenance of the said bridge and approaches, the Lieutenant-Governor of Bengal may levy or cause to be levied, from the date of the opening of the said bridge for traffic, the following fees on goods and passengers conveyed on the railway of the East Indian Railway Company into and from the station at Howrah, namely:—

On every maund of goods	2 pie
On every passenger	3 pie

Provided that the said Lieutenant-Governor may at any time lower the said fees, and may also exempt any goods or any passengers from payment of the said fees;

Power to re-impose payment of the fees exempted under this section.

[b] Provided also that the said Lieutenant-Governor may, from time to time, re-impose the payment of the fees on any goods or any passengers which may have been exempted from such payment under this section.[b]

Appointment of person to collect tolls and take charge.

5. The said Lieutenant-Governor may appoint such person or persons as he shall think fit to collect tolls, fees and charges under this Act, and also to take charge of the said bridge and to superintend the traffic thereon.

Lieutenant-Governor may make bye-laws.

6. It shall be lawful for the Lieutenant-Governor of Bengal from time to time to make bye-laws for the guidance of persons employed by him under this Act;

for the safe and convenient use of the bridge to be constructed under the provisions of this Act, and approaches thereto;

for the passage of ships, boats and vessels through the said bridge;

for the mode of payment and levy of the tolls, fees and charges leviable under this Act;

or otherwise for carrying out the purposes of this Act;

and from time to time to vary, alter or revoke any such bye-law so made by him.

Penalty for infringement of bye-law.

7. No penalty for any one infringement of a bye-law shall exceed one hundred rupees, nor in case of a continuing infringement shall any penalty exceed fifty rupees *per diem* for every day after notice of such infringement shall

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[a-a] This proviso to s. 3 has been substituted for the original proviso by Ben. Act III of 1888, s. 3—see that section, *infra*.

[b-b] This proviso to s. 4 has been added by Ben. Act III of 1888, s. 4—see that section, *infra*.

have been given by or on behalf of the said Lieutenant-Governor to the person guilty of such infringement.

Bye-laws and tables of tolls to be exhibited.

8. The Lieutenant-Governor of Bengal shall cause the said bye-laws, and the tables of tolls, fees and charges leviable, to be printed in the English Hindustani, Hindi and Bengali languages and characters, and to be hung up and kept hung up at the approaches to the said bridge.

Power to collect tolls through East Indian Railway Company.

9. It shall be lawful for the East Indian Railway Company and the said Lieutenant-Governor to make such arrangement or agreement for the collection of tolls, fees and charges by the said Company in respect of persons, animals, carriages and goods crossing the said bridge to or from the station of the said Company at Howrah, or conveyed into or from the said station, as to the said Company and the said Lieutenant-Governor shall seem fit, and upon such agreement being made the said Company shall levy the said tolls, fees and charges.

Power to apply public funds in construction of bridge.

10. It shall be lawful for the said Lieutenant-Governor to advance for the construction of the said bridge and approaches thereto such sums out of the public funds as from time to time may be in that behalf sanctioned by the Governor General of India in Council.

Interest at the rate of four and a half per centum per annum shall be charged on such sums respectively on the thirty-first day of March and on the thirtieth day of September in each year from the respective dates upon which such sums shall have been advanced up to the date of the opening of the said bridge for traffic; and all sums so charged for interest as aforesaid shall be deemed to be sums advanced within the meaning of this section.

Accounts to be kept of bridge.

11. The said Lieutenant-Governor shall cause such accounts as he shall think fit to be kept of all expenditure in or about the construction or maintenance of the said bridge and approaches, and the collection of such tolls, fees or charges, or otherwise in relation to the said bridge, and the payment of interest which may from time to time be payable to the Secretary of State for India in Council, and also of the income derived from such tolls, fees and charges, and shall from time to time apply the balance which shall remain of such income, after defraying thereout the current expenses incurred in relation to such bridge, and interest as aforesaid, in repaying to the Secretary of State for India in Council all sums which shall have been advanced from the public funds for the construction of the said bridge and approaches.

Power to nominate Commissioners.

12. It shall be lawful for the said Lieutenant-Governor of Bengal at any time after the commencement of this Act, if he think fit, with the assent of the Commissioners at a meeting, by order published in the Calcutta Gazette, to appoint the said Commissioners to carry out the purposes of this Act.

13. When and so soon as the Commissioners shall be so appointed, the Commissioners, subject however to the provisions hereinafter in that behalf contained, shall and may have and exercise all the powers and authorities, and shall perform all the duties, in and by sections 5 to 8 (both inclusive) of this Act or any of them, or in and by section 10, conferred or imposed on the said Lieutenant-Governor.

Commissioners to have powers and duties of Lieutenant-Governor.

And all property procured for the construction of the said bridge and the approaches thereof, and the said bridge and approaches, and the tolls, fees and charges thereof, and the right to enforce all contracts respecting the same, shall become vested in the Commissioners.

Property to vest in Commissioners.

14. All property vested in, or acquired by, the Commissioners under or by virtue of this Act, and all moneys payable to them under or by virtue of this Act, shall be held in trust for the payment of all sums which from time to time shall be payable to the Secretary of State for India in Council for moneys advanced or applied, or to be advanced or applied by or on behalf of the said Secretary of State for India in Council for the construction of a bridge across the river Hooghly between Howrah and Calcutta, or otherwise under the provisions of this Act, and subject thereto upon trust for the purposes of this Act and not otherwise.

Property of Commissioners to be applied for purposes of Act.

And nothing in this Act contained shall be construed so as to render the said Commissioners liable to make good any moneys payable by them under the provisions of this Act, or otherwise in relation to the said bridge, except out of property and moneys held by them in trust as aforesaid.

15. The aggregate sum which may under the provisions of section 10 of this Act become payable from the Commissioners to the said Secretary of State shall be by them repaid to him in thirty equal annual instalments, the first of such instalments to be paid on the first day of April which shall be next after the completion of twelve calendar months from the date of the opening of the said bridge for traffic, and the other instalments to be paid respectively on the first day of April in every year, computing from the day fixed for the payment of the first of such instalments.

Repayment of principal sums due.

16. Interest at the rate of four and a half per cent. per annum shall be paid by the Commissioners to the said Secretary of State upon the aggregate amount which for the time being may be payable to him from them upon the thirty-first day of March and the thirtieth day of September in each year, the first of such payments of interest to be calculated from the date of the opening of the said bridge for traffic and to be made on the thirty-first day of March or the thirtieth day of September, whichever may first happen next after the opening of the said bridge for traffic.

Payment of interest.

Power to repay before due date.

17. Notwithstanding the provisions of section 14, it shall be lawful for the Commissioners, if they think fit, out of any moneys which may come to their hands under the provisions of this Act, to repay to the said Secretary of State in Council any sum or part thereof which for the time being may remain payable to him under the provisions of this Act for principal, although the time fixed by the said section for the repayment of the same shall not have arrived:

Provided always that no such repayment shall be made of any sum less than five thousand rupees, nor of any sum not being a multiple of five thousand rupees, and from and after any such repayment no further sum as interest shall be payable to the said Secretary of State in Council in respect of the sum which shall have been so repaid.

Application of surplus income.

18. Whenever the half-yearly accounts to be laid before the Lieutenant-Governor of Bengal under the provisions of this Act shall show a surplus of income over expenditure, such surplus or so much thereof as the said Commissioners shall think fit may be invested by the Commissioners in the purchase in their corporate name of Government securities, and the interest thereof may be accumulated and invested in like manner, with power to the Commissioners at any time to dispose of any such securities, and to apply the proceeds and interest thereof, with the sanction of the Lieutenant-Governor, in or towards any of the purposes of this Act.[a]

The said Government securities shall be held by the said Commissioners in trust for the purposes of this Act and not otherwise.

Estimate of income and expenditure to be submitted annually to Commissioners.

19. The salaried Chairman or salaried Vice-chairman of the Commissioners shall at a meeting, to be held within two months after the Commissioners shall have been appointed, lay before the Commissioners a separate estimate of the expenditure and income under this Act of the Commissioners for the period which shall be to come from the date of their appointment up to the first day of April then next ensuing; and shall also at a meeting, to be held in the month of February in each year, lay before the Commissioners a like estimate of such income and expenditure for the year commencing on the first day of April then next ensuing.

Every such estimate shall be in such form as the Lieutenant-Governor of Bengal shall by an order published in the Calcutta Gazette direct:

Provided always that such estimate shall be completed and printed, and a copy thereof sent by post or otherwise to each Commissioner, at least ten clear days prior to the meeting before which the estimate is to be laid.

Revision and

20. It shall be in the discretion of the Commissioners at such meeting by

[a] For power to lend money from the reserve fund to the Corporation of Calcutta, see Ben. Act III of 1889, *infra*.

resolution to pass or to reject, or to modify or alter, such estimate, and pass such estimate so modified or altered.

passing of estimate.

21. Every such estimate, when passed by the Commissioners in pursuance of the provisions of this Act, shall be submitted to the Lieutenant-Governor of Bengal, and it shall be lawful for such Lieutenant-Governor either to approve of such estimate or to return the same with his remarks thereupon, and the Commissioners shall forthwith at a meeting proceed to reconsider such estimate in reference to such remarks, and to modify or alter the same, and to resubmit such estimates to the said Lieutenant-Governor, and it shall not be lawful for the Commissioners to expend any greater sum under such estimate than shall be approved by the said Lieutenant-Governor.

Estimate to be approved by Lieutenant-Governor.

22. After the repayment of all sums advanced under the provisions of section 10 of this Act, whenever an estimate is submitted or resubmitted pursuant to the next preceding section, if the Government securities then held by the Commissioners shall have been declared by them at a meeting, and shall be considered by the Lieutenant-Governor, to form a sufficient reserve fund for the purposes of this Act, then the said Lieutenant-Governor shall so regulate the scale of fees, tolls and charges in relation to the said bridge as that the probable income derivable therefrom shall be no more than is sufficient to defray the expenditure set forth in the said estimate.

Tolls to be reduced on accumulation of sufficient reserve fund.

23. It shall be lawful for the Commissioners, in the course of any year for which an estimate shall have been approved by the Lieutenant-Governor, to cause a supplemental estimate for the residue of such year to be prepared and laid before the Commissioners at a meeting, and thereupon such proceedings shall be had as in and by sections 19, 20 and 21 are directed to be had with respect to the estimate therein mentioned.

Power to make supplemental estimate.

24. No bye-law or alteration or revocation of a bye-law made by the Commissioners shall have effect until the same shall have been approved by the Lieutenant-Governor of Bengal by an order published in the Calcutta Gazette, and no bye-law made by the Commissioners shall be approved by the said Lieutenant-Governor until it shall have been published for three weeks successively in the Calcutta Gazette; and, when such bye-law shall have been so approved, all Courts of Law shall take judicial notice thereof.

Approval of bye-laws.

25. It shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the Calcutta Gazette, to revoke, annul and make void any bye-law made by the Commissioners.

Lieutenant-Governor may revoke and annul bye-laws.

26. When and so soon as the Commissioners shall be so appointed as aforesaid, all the provisions contained in sections 17, 18, 19, 21, 24, 25, 26, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 52, 53, 76, 79, 80, 88, 89, 90 and

Certain provisions of Ben. Act V of 1870 extended.

91 of the said Act V of 1870,* passed by the Lieutenant-Governor of Bengal in Council, shall apply to this Act as if the said sections were re-enacted herein; and this Act and the said sections of the said Act shall, for the purpose of the construction of this Act, be read and construed together.

Limitation of suits.

27. No suit or other proceeding shall be commenced or prosecuted against any person for anything done or professing or purporting to be done in pursuance of this Act without giving to such person a month's previous notice of the intended proceeding and of the cause thereof, nor after tender of sufficient amends, nor after the expiration of three months from the accrual of the cause of suit or other proceeding.

No compensation for obstruction.

28. No person shall be entitled to any compensation for any loss or injury which he may sustain by reason of any obstruction to the navigation of the said river which may be caused by the said bridge, or by anything done in the construction thereof.

Penalty on evasion of toll.

29. Any person who shall wilfully evade, or attempt to evade, payment of any toll, fee or charge payable under this Act shall be liable to a fine which may extend to fifty rupees, or to imprisonment, simple or rigorous, which may extend to fourteen days, or to both.

Power to arrest.

30. Any person committing any offence against the provisions of the last section may be arrested by any officer to be by the Lieutenant-Governor, the Commissioners or the said Railway Company thereunto appointed, and by such officer or any person by him thereunto authorized, or by any officer of police, and forthwith conveyed before some Magistrate having jurisdiction in the place in which such offence shall have been committed, or to the nearest police-station within the said jurisdiction.

Summary jurisdiction.

31. Whenever such person shall be brought before a Magistrate, such Magistrate may forthwith hear and determine the charge of such offence.

Offender to be forthwith brought to trial.

32. Whenever such person shall be taken to a police-station, the officer in charge of such station shall, as soon as conveniently may be, cause him to be conveyed before some Magistrate having jurisdiction in the matter.

Short title.

33. This Act may be called the Howrah Bridge Act, 1871.

SCHEDULE.

(*Referred to in section 3.*)

MAXIMUM AMOUNT OF TOLLS, FEES AND CHARGES.

	Rs.	As.	P.
For every foot-passenger with or without load	0	0	
For every horse	0	1	0

* See *supra*, pp. 132 *et seq.*

SCHEDULE—*continued.*

	Rs.	As.	P.
For every pony, mule or ass	0	0	6
For every buffalo	0	1	0
For every cow, ox or bull	0	0	6
For every calf, sheep, goat or pig	0	0	3
Or per score	0	3	0
For every two-wheeled vehicle without springs	0	1	0
Ditto ditto carrying goods or animals or passengers	0	3	0
For every two-wheeled vehicle with springs	0	2	0
For every four-wheeled vehicle without springs	0	2	0
Ditto ditto carrying goods or animals or passengers	0	4	0
For every four-wheeled vehicle with springs other than a second or third class hackney-carriage	0	4	0
For every maund of goods conveyed over the bridge on a tramway or railway	0	0	4
For every empty truck using a tramway or railway	0	4	0
For every locomotive steam-engine	1	0	0
Animals drawing any of the above vehicles to be charged in addition to the charge on the vehicle.			
For every second class hackney-carriage	0	1	0
Ditto ditto carrying goods or passengers	0	3	0
For every third class hackney-carriage	0	1	0
Ditto ditto carrying goods or passengers	0	2	0
For every palankeen and bearers	0	2	0

ACT No. I OF 1873.[a]

Received the Lieutenant-Governor's assent on the 15th February, 1873, and the Governor General's assent on the 7th March, 1873.

An Act to amend the Salt Act, 1864.[b]

Preamble.

WHEREAS by the Salt Act, 1864, being Bengal Act VII of 1864,[b] section 8, it is enacted that the word "Magistrate" means any person exercising the full powers of a Magistrate under the Code of Criminal Procedure, Act XXV of 1861; and whereas the said Act XXV of 1861 has been repealed by the Code of Criminal Procedure, Act X of 1872, by which later enactment new rules have been enacted, assigning the several powers of Magistrates of the first, second and third classes;

And whereas reference is made in the Salt Act, 1864,[b] to Act XIII of 1856

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[a] This Act has been declared in force, under s. 3 of the Scheduled Districts Act, 1874, in the Districts of Hazáribágh, Lohárdugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see Vol. I, p. 677; also in the District of Sylhet, Kámrúp, Nowgong, Darrang, Sibságar, Lakhimpur, Goálpára (excluding the Eastern Dwárs) and Cachar (excluding the North Cachar Hills)—see Appendix to Assam Supplement.

[b] See *supra*, p. 28.

(*for regulating the Police of the Town of Calcutta, &c.*) and Act XLVIII of 1860 (*to amend Act XIII of 1856*), which enactments have been repealed, so far as they relate to the town of Calcutta, by the Calcutta Police Act, 1866, being Bengal Act IV of 1866;[a]

It is hereby enacted as follows:—

Powers of Magistrate under Salt Act, 1864.

1. All the powers which, under the provisions of the Salt Act, 1864,[b] may be exercised by a Magistrate, may be exercised by a Magistrate of the first or second class, subject to the provisions of section 32 of the Code of Criminal Procedure, 1882.[c] Ben. VII of 1864. X of 1882.

Trial of offences under said Act.

2. All offences punishable under the provisions of the Salt Act, 1864,[b] may be inquired into and tried by a Magistrate of the first or second class. Ben. VII of 1864.

References in said Act to Calcutta Police Act.

3. All references made to the said Act XIII of 1856 and the said Act XLVIII of 1860 in the Salt Act, 1864,[b] shall be taken to be made to the Calcutta Police Act, 1866.[a] Ben IV of 1866.

ACT No. IV OF 1873.[d]

Received the Lieutenant-Governor's assent on the 21st April, 1873, and the Governor General's assent on the 25th June, 1873.

An Act for registering Births and Deaths.

Preamble.

Whereas it is expedient to provide the means for a complete register of births and deaths; It is hereby enacted as follows:—

Power to direct registration of births and deaths and define area.

1. The Lieutenant-Governor may at any time, by a notification published in the Calcutta Gazette, direct that all births and deaths, or all births, or all deaths, occurring within the limits of any area[e] after a certain date to be named in such notification shall be registered, and for that purpose may define the limits of such area.

From and after such date this Act shall apply to the whole of the area so defined.

Magistrate may divide area into districts, and may appoint registrars.

2. The Magistrate of the district[f] may, for the purpose of such registration, divide any such area into such and so many districts as he may think fit, and may appoint one or more persons to be registrars of births or of deaths, or of births and deaths, within such district, and may at any time for sufficient

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[a] See *supra*, p. 61. [b] See *supra*, p. 28.

[c] See Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

[d] Ben. Act IV of 1873 has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2; also in the Districts of Hazáribágh, Lohárdugga and Manbhoom Pergunnah Dhalbhoom and the Kolhan, under s. 3 of the Scheduled Districts Act, 1874—see Vol. I, p. 677.

For further provisions as to registration of births and deaths in the mufassal, see Ben. Act III of 1884, Part XI, *infra*. As to Calcutta, see Ben. Act II of 1888, Ch. VIII, *infra*.

[e] For list of places notified under this section, see Appendix.

[f] Now District Magistrate—see Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

reason dismiss any such registrar, and may fill up any vacancy in the office of registrar.

The Magistrate shall cause to be published a list containing the name and place of office of every registrar in the area, and specifying the hours of the day during which such registrar shall attend at his office for the purpose of registration.

Magistrate to publish list of registrars.

3. Every registrar shall have an office within the district of which he is appointed registrar, and shall cause his name, with the addition of registrar of births (or of deaths, or of births and deaths, according to his appointment) for the district for which he is so appointed, and notice of the hours during which he will attend for the purpose of registration, to be affixed in some conspicuous place on or near the outer door of his office.

Every registrar to have an office within his district.

4. The Magistrate shall cause to be prepared a sufficient number of register-books for making entries of all births or deaths or both, according to such forms as the Lieutenant-Governor may from time to time sanction; and the pages of such books shall be numbered progressively from the beginning to the end; and every place of entry shall be also numbered progressively from the beginning to the end of the book, and every entry shall be divided from the following entry by a line.

Commissioners to have register-books prepared and numbered.

5. Every registrar shall inform himself carefully of every birth, or of every death, or of both, according to his appointment, which shall happen in his district, and shall register, as soon as conveniently may be after the event, without fee or reward, the particulars required to be registered, according to the forms mentioned in the last preceding section, touching every such birth or every such death, as the case may be, which shall not have been already registered.

Registrar to inform himself of, and register, births and deaths.

6. Every chaukidár or other village-watchman in any area to which this Act shall apply, or, where there is no chaukidár or other village-watchman, such person as the Magistrate may appoint, shall be required to report every birth or death occurring within his beat to such registrar and at such periods as the Magistrate may direct.

Chaukidár to obtain particulars and to report to registrar.

He shall obtain in writing if possible, and if it is impossible for him to obtain in writing he shall obtain verbally, from any person who is bound to give information of the birth or death all particulars which are required to be known and registered, and he shall report such particulars to the registrar.

Any chaukidár or other village-watchman or other person so appointed who wilfully or negligently refuses or omits to produce such writing, if any, or to report such birth or death, shall be punishable at the discretion of the Magistrate with fine which may extend to two rupees.

Penalty for neglect.

Persons bound to give information of birth.

7. The father or mother of every child born within such area, or in case of the death, illness, absence or inability of the father and mother, the midwife assisting at the birth of such child, shall, within eight days next after the day of every such birth, give information, either personally or in writing, to the registrar of the district, or by means of the chaukidár or other village-watchman or other person as provided in the last preceding section, according to the best of his or her knowledge and belief, of the several particulars hereby required to be known and registered touching the birth of such child.

Penalty for neglect.

Any person who refuses or neglects to give any information which it is his duty to give under this section shall be punishable at the discretion of the Magistrate with fine which may extend to five rupees:

Provided that not more than one person shall be punishable at the discretion of the Magistrate for such refusal or neglect to give information.

Persons bound to give information of death.

8. The nearest male relative of the deceased present at the death, or in attendance during the last illness of any person dying, within such area, or, in the absence of any such relative, the occupier of the house, or, if the occupier be the person who shall have died, some male inmate of the house in which such death shall have happened, shall, within eight days next after the day of such death, give information either personally or in writing to the registrar of the district,[a] or by means of the chaukidár or other village-watchman or other person as provided in section 6, according to the best of his knowledge and belief, of the several particulars hereby required to be known and registered touching the death of such person:

Provided that no person shall be bound to give the name of any female relative.

Penalty for neglect.

Any person who refuses or neglects to give any information, which it is his duty to give under this section, shall be punishable at the discretion of the Magistrate with fine which may extend to five rupees:

Provided that not more than one person shall be punishable for such refusal or neglect to give information.

Penalty for registrar refusing to register.

9. Any registrar[a] who refuses or neglects to register any birth or death occurring within his district, which he is bound to register, within a reasonable time after he shall have been duly informed thereof, or demands or accepts any fee or reward or other gratification as a consideration for making such registry, shall be punishable at the discretion of the Magistrate with fine which may extend to fifty rupees for each such refusal or neglect.

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[a] Or sub-registrar appointed for a burning-ghât or burial-ground—see Ben. Act III of 1864, s. 318, *infra*. As to duty of medical officer in charge of hospital to give notice of death, see *ibid.*, s. 340, *infra*.

10. Whoever wilfully makes or causes to be made, for the purpose of being inserted in any register of births or deaths, any false statement touching any of the particulars required to be known and registered, shall be punishable at the discretion of the Magistrate with a fine not exceeding fifty rupees.

Penalty for wilfully giving false information.

11. In any place to which the District Municipal Improvement Act[a] shall have been extended, the Municipal Commissioners may, if at a meeting specially convened for considering such question they shall so determine, arrange for keeping a register of all births, or of all deaths, or of all births and deaths, occurring within the municipality.

Ben. III of 1864.

Municipality under Ben. Act III of 1864 may arrange for keeping register of births or deaths, or both.

On and after a date to be fixed at such meeting, the Commissioners shall in such case be authorized to provide out of the municipal fund for the employment of a sufficient number of registrars, and for the expenditure necessary for the maintenance of such registers, and shall exercise all the powers of a Magistrate under this Act; and all the provisions of this Act shall be deemed to apply to such place.

12. The Magistrate of a district[b] may depute any subordinate Magistrate to exercise the powers and to perform the duties vested in the Magistrate by this Act within such district or any part thereof.

Magistrate may depute subordinate Magistrate to discharge his functions.

ACT No. VI OF 1873.[c]

Received the Lieutenant-Governor's assent on the 2nd December, 1873, and the Governor General's assent on the 20th idem.

An Act to amend the law relating to embankments and watercourses.

WHEREAS it is expedient that provision should be made for the better construction, maintenance and management of embankments and watercourses in the territories subject to the Lieutenant-Governor of Bengal; It is enacted as follows:—

Preamble.

PART I.

PRELIMINARY.

1.[d] This Act may be called the Bengal Embankment Act, 1873.

Short title.

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[a] Ben. Act III of 1864 has been repealed by Ben. Act V of 1876, which again has been repealed by Ben. Act III of 1884.

[b] Now District Magistrate—see Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

[c] This Act has been declared in force, under s. 3 of the Scheduled Districts Act, 1874, in the Districts of Hazáribágh, Lohárdugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see Vol. I, p. 677; also in the Districts of Sylhet, Kámrúp, Nowgong, Darrang, Sibságar, Lakhimpur, Goálpára (excluding the Eastern Dwárs) and Cachar (excluding the North Cachar Hills)—see Appendix to Assam Supplement.

Nothing in this Act applies to any canal or flood-embankment as defined in the Bengal Irrigation Act, 1876—see Ben. Act III of 1876, s. 4, *infra*.

[d] S. 1 has been repealed, except in Assam and possibly in Chota Nagpore, by Ben. Act II of 1882, s. 2—see Ben. Act II of 1882, s. 2, *infra*.

Extent.

It extends to the whole of the territories subject to the Lieutenant-Governor of Bengal, except the Province of Orissa and the Sundarbans as defined under the provisions of clause 2, section 13, Regulation III of 1828;[a]

Commencement.

And it shall come into force on the day of the passing thereof.

Repeal of Acts.

2.[b] From such day Act No. XXXII of 1855[c] (*relating to embankments*) and Bengal Act No. VII of 1866[d] (*to make better provision for the acquisition of land for embankments and other matters relating thereto*) shall, except so far as relates to the Province of Orissa and the said Sundarbans, be repealed.

Interpretation.

3.[b] The following words shall, for the purposes of this Act, have the meanings hereby declared, save where, from the context, a contrary intention appears:—

"Estate."

"estate" means—

(1) any land or share in land subject to the payment to Government of an annual sum, in respect of which the name of a proprietor is entered on the register known as the general register of all revenue-paying estates, or in respect of which a separate account may, in pursuance of section 10 or section 11 of Act XI of 1859,[e] have been opened;

(2) any land entered in the register of revenue-free tenures;

(3) any land acquired under any rules issued by or under authority of Government for the sale, grant or clearance of waste-lands:

"Embankment."

"embankment" includes every bank, dam, wall and dyke, made or used for excluding water from, or for retaining water upon, any land, and every sluice, spur, groyne, training-wall or other work annexed to or portion of any such embankment, and every bank, dam, dyke, wall, groyne or spur made or erected for the protection of any such embankment or of any land from erosion or overflow by or of rivers, tides, waves or waters; and also all buildings intended for purposes of inspection and supervision:

"Watercourse."

"watercourse" includes a line of drainage, weir, culvert, pipe or other channel for the passage of water, whether natural or artificial:

"Zamindár."

"zamindár" means all or any of the holders of an estate; and, where two or more zamindárs are jointly holders thereof, they shall be jointly and severally liable under this Act:

"Tenure."

"tenure" includes all interests in land other than estates as above defined, held permanently at a fixed rental or held lákhiráj:

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[a] See Vol. I, p. 252.

[b] Ss. 2 and 3 have been repealed, except in Assam and possibly in Chota Nagpore, by Ben. Act II of 1882, s. 2. See Ben. Act II of 1882, s. 2, *infra*.

[c] See Vol. I, p. 290.

[d] See *supra*, p. 97.

[e] See Vol. I, pp. 384, 385.

"proprietor" means the holder of a tenure: "Proprietor."

"public embankment" means an embankment maintained by the officers of Government: "Public embankment."

"public watercourse" means any watercourse under the charge of the officers of Government: "Public watercourse."

"the engineer" means the district engineer or any engineer especially appointed by the Lieutenant-Governor of Bengal to perform the functions of an engineer under this Act: "The engineer."

"collector" means any Collector, Deputy Collector or other Revenue-officer in independent charge of any district or portion of a district, or specially appointed by the Lieutenant-Governor of Bengal to perform the functions of a Collector under this Act: "Collector."

"district" means the portion of territory throughout which any person vested with the powers of a Collector is authorized to exercise such powers: "District."

"land" includes interests in land and benefits arising out of land and things attached to the earth or permanently fastened to anything attached to the earth. "Land."

PART II.

Powers of Collector and Procedure thereon.

4.* Under the conditions and in the manner hereinafter provided— Powers of Collector.

(1) the Collector may cause any embankment which connects public embankments, or forms, by junction with them, part of a line of embankments, or any embankment or watercourse which is necessary for the protection or drainage of the neighbouring country, to be taken charge of and maintained by the officers of Government; Power to take charge of embankments.

(2) the Collector may cause to be removed or altered any embankment which endangers the stability of a public embankment, or any obstruction of any kind which interferes with the general drainage of any tract of land; Power to remove embankments and obstructions.

(3) the Collector may, when necessary, change the line of or lengthen any public embankment; or make a new embankment in the place of or renew any public embankment; or make an embankment in any place in which he may deem such embankment required for the protection of any lands, or for the improvement of any watercourse; or make a sluice in any public embankment; Power to change line of embankment.

(4) the Collector may construct any sluice or watercourse, or effect any Power to im-

* S. 4 has been repealed, except in Assam and possibly in Chota Nagpore, by Ben. Act II of 1882, s. 2—see Ben. Act II of 1882, s. 2, *infra*.

prove drainage

alteration in any public watercourse, when such construction or alteration may be required for the improvement of the health, or for the protection, of any village or cultivable land;

Power to alter roads and construct watercourses.

(5) the Collector may call upon the person in charge of any road which interferes with the drainage of any tract of land to alter such road, or to construct any watercourse under or through such road.

In the event of such person failing to comply with such requisition in such manner and within such time as the Collector shall prescribe, the said Collector may cause the road to be altered, or a watercourse to be constructed.

The expenses of such alteration or construction shall be borne by the person in charge of the said road, so far as the same shall have been incurred on account of insufficient provision having been made at the time of the construction of the said road for the natural drainage then existing.

Applications for sluices to be made to Collector.

(6) If any landholder, farmer or cultivator be desirous of having a sluice made in any public embankment for the purpose of drainage or irrigation, he shall make an application in writing to the Collector of the district in which such embankment is situate.

The application shall contain such particulars of the land to be drained or irrigated as may enable the Collector to judge of the advantage which may be derived from the work.

The Collector shall decide whether it is expedient that such application shall be granted.

Application for new embankment or drainage to be made to Collector.

(7) Whenever any person is desirous that any new embankment be erected or that any new watercourse be made, or that any watercourse be obstructed or diverted, if such work is likely to interfere with, counteract or impede any public embankment or any public watercourse, he shall apply to the Collector, and at the time of making such application shall deposit with him a statement of the proposed work.

The Collector shall decide whether it is expedient that such application shall be granted.

Procedure.

5.[a] When it shall appear expedient to the Collector that any of the works specified in the last preceding section should be executed, he shall cause to be prepared plans, specifications and estimates of the proposed works, together with a copy of the survey-map shewing the boundaries of the villages of the various estates likely to be affected by the said works, and he shall cause a proclamation to be issued giving notice of his intention to cause such works to be executed.

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[a] S. 5 has been repealed, except in Assam and possibly in Chota Nagpore, by Ben. Act II of 1882, s. 2—see Ben Act II of 1882, s. 2, *infra*.

Such proclamation shall be in the form, and state the particulars, mentioned in Schedule A annexed to this Act; and the plans, specifications and estimates of the proposed works, together with a copy of the survey-map as aforesaid, shall be kept at the office of the Collector and shall be open to the inspection of any interested person, who shall be allowed to take copies thereof.

The Collector shall not commence any of such works until final order made in respect thereto under the provisions of sections 8, 59 and 60 of this Act.

Publication of proclamation.

6.[a] Every such proclamation shall be published by affixing the same at the kachahri of the Collector, and in the manner provided in the third clause of section 57.

Time of publication.

7.[a] Every such proclamation shall be published not less than thirty days before the day appointed for hearing the persons interested.

Hearing of objections to works.

8.[a] The Collector shall, on the day appointed for the hearing, or on any subsequent day to which the hearing shall be adjourned, hear the objections of any persons who may appear, and, after recording any evidence which they may adduce, shall pass an order in regard to the execution of the proposed works.

Notice of such order shall be served on such persons as may have appeared in pursuance of the proclamation.

Authority to take proceedings where lands likely to be affected by works are in different districts,

9.[a] If the lands which are likely to be affected by any such proposed works are situated within the limits of different districts, the Collector of any district within which any portion of such lands is situated shall apply to the Commissioner of the division for authority to proceed in such matter; and the Commissioner of the division, if all the lands are situated within his division, may give authority to such Collector, or to any other Collector within whose district any portion of such lands is situated, to proceed in respect of all the lands likely to be affected by such works.

or different divisions.

If the districts within which the lands likely to be affected by any such works are situated are subject to the Commissioners of different divisions, the Collector shall apply to the Commissioner of the division within which his district is situated, and such Commissioner may, with the concurrence of the Commissioner to whom the other district is subject, give authority to proceed in such matter.

Collector may delegate certain powers to engineer.

10.[a] All the powers vested in the Collector by section 4 of this Act may be exercised by the engineer in cases referred to him by the Collector, subject to the general orders of the Collector.

[a] Ss. 6-10 have been repealed, except in Assam and possibly in Chota Nagpore, by Ben. Act II of 1882, s. 2—see Ben. Act II of 1882, s. 2, *infra*.

PART III.

Procedure in Cases of imminent Danger to Life or Property.

Proceedings in emergencies.

11.[a] Whenever the Collector shall be of opinion that the proceedings commenced by notice under sections 5 to 8 of this Act would cause delay in the exercise of any of the powers conferred upon him by clauses 2, 3 and 4 of section 4, likely to be attended with grave and imminent danger to life or property, it shall be lawful for him forthwith to commence to exercise such powers:

Provided that he shall forthwith cause to be prepared the plans, specifications and estimates of the proposed works, together with a copy of the survey-map as provided in section 5, and shall cause a proclamation to be issued as provided in that section giving notice that the work mentioned therein has already been commenced, and thereupon such proceedings and inquiries shall be had as in and by Part II of this Act are directed.

Power to take possession of land.

12. Whenever any land, or earth from any land, the property of any person, is required for the purposes of any works commenced in pursuance of the provisions of the last preceding section,[b] or for the purposes of section 18,[b] in cases where the Collector shall be of opinion that proceedings for the acquisition of such land according to the provisions hereinafter contained in section 25[b] would cause delay as aforesaid, the Collector shall cause a proclamation to be issued in form in Schedule B annexed to this Act, giving notice thereof at convenient places in the locality in which such land is situated, and he may at the same time take possession of the same for the said purposes.

Compensation for standing crops and trees.

13. The Collector shall ascertain and record the nature and estimated value of the crops and trees (if any) standing on such land, and shall offer adequate compensation to the persons interested.

If such offer is not accepted, the value of such crops and trees shall be allowed for in awarding compensation for the land under the provisions of section 29.

Power to engineer to act in absence of Collector.

14.[a] The Collector may depute to the engineer the powers described in sections 11, 12 and 13, subject to his own general orders, and in that case when the Collector is not present the engineer may, if he shall be of opinion

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[a] Ss. 11 and 14 have been repealed, except in Assam and possibly in Chota Nagpore, by Ben. Act II of 1882, s. 2—see Ben. Act II of 1882, s. 2, *infra*.

In Bengal, read in 12 for "the last preceding section" the words and figures "section 25 of Bengal Act II of 1852"; for "section 18" the words and figures "section 30 of Bengal Act II of 1852"; and for "section 25" the words and figures "section 37 of Bengal Act II of 1852"—see Ben. Act II of 1882, s. 2 and Sch. II, *infra*.

that delay for the purpose of obtaining the orders of the Collector would be attended with grave and imminent danger to life or property, exercise the powers conferred on him by the Collector.

Power to restore embankments, &c.

15.[a] Whenever, upon an inquiry had under the provisions of this Part, it has been determined in the final order to be passed on such inquiry that anything done by the Collector, or by the engineer under the last preceding section, was unnecessary, the land or the embankments or drainage shall, so far as any alteration thereof shall appear to be unnecessary, be at the expense of the Government restored as nearly as possible to the state in which they were when the Collector commenced to act under the provisions of this Part; and any person who shall have sustained loss, damage or injury by the execution of such works shall receive compensation from the Government to be assessed according to the provisions contained in Part V of this Act.

Section 9 applied.

16.[a] The provisions of section 9 shall be applicable to proceedings taken under this Part.

PART IV.

Powers of Engineer.

Control of engineer.

17.[a] The power conferred on the engineer under this Part shall be exercised subject to the general control and orders of the Collector.

Power to make repairs.

18.[a] The engineer may make any repairs in, and may do all acts necessary and proper for the maintenance of, any public embankment, public watercourse or other work executed or taken charge of under the provisions of this Act, or of any of the Acts repealed by this Act.

Power to alter railroads or construct watercourses.

19.[a] The engineer may call upon the manager or other person in charge of any railroad which interferes with the drainage of any tract of land to alter such railroad or to construct any watercourse under or through such railroad.

In the event of such person failing to comply with such requisition in such manner and within such time as the engineer shall prescribe, the engineer may thereupon, with the previous sanction of the Lieutenant-Governor, cause the said railroad to be altered, or a watercourse to be constructed in such manner as the Lieutenant-Governor shall direct.

The expenses of such alteration or construction shall be borne by the said manager or other person in charge of the said railroad, so far as the same shall

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[a] Ss. 15-19 have been repealed, except in Assam and possibly in Chota Nagpore, by Bengal Act II of 1882, s. 2—see Ben. Act II of 1882, s. 2, *infra*.

have been incurred on account of insufficient provision having been made at the time of the construction of the said railroad for the natural drainage then existing.

Power to make temporary roadway, watercourse or dam.

20.[a] Whenever any person is desirous that a temporary roadway should be made over, or that a temporary watercourse should be made through, any public embankment, or that a temporary dam should be constructed in any embanked river or public watercourse, he shall apply to the engineer, who shall communicate the application to the Collector, and the Collector shall pass such orders thereon as he shall think fit.

If the proposed work is to be executed by an officer of Government, the applicant, before the commencement of the work, shall deposit the amount estimated by the engineer to be necessary to defray the expenses of, and incidental to, making and removing such roadway, or of, and incidental to, making and closing or removing such watercourse or dam.

If the amount deposited is found insufficient, the engineer shall recover from the said applicant the further amount required, and, if it exceeds the amount required, such excess shall be returned to the said applicant.

Power to remove houses.

21.[a] Whenever the engineer shall be of opinion that the removal of any trees, houses, huts or other buildings situated between a public embankment and the river is necessary, he shall make a report to that effect, accompanied by a detailed statement of the trees, houses, huts or other buildings to be removed, to the Collector of the district in whose jurisdiction the land on which such trees, houses, huts or other buildings stand is situated; and the Collector shall report the same to the Lieutenant-Governor in order that proceedings may be taken, in accordance with the provisions of the Land Acquisition Act, X of 1870,[b] or other law for the time being for the acquisition of land for public purposes, for obtaining possession of such trees, houses, huts and buildings:

Provided always that, in case the Collector be of opinion that the delay required by such proceedings[c] is likely to be attended with grave and imminent danger to life or property, it shall be lawful for him forthwith to cause such trees, houses, huts or buildings to be removed, and in such case the compensation due therefor shall be ascertained and paid in the manner hereinafter provided.

Sluices to be

22.[a] Sluices constructed in any public embankment shall be opened or shut

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[a] Ss. 20 and 22 and the first para. of s. 21 have been repealed, except in Assam and possibly in Chota Nagpore, by Bengal Act II of 1882, s. 2—see Ben. Act II of 1882, s. 2, *infra*.

[b] See General Acts, 1867—76, 2nd Ed., p. 177.

[c] In Bengal, read in s. 21 for "such proceedings" the words and figures "section 19 of Bengal Act II of 1882"—see Bengal Act II of 1882, s. 2 and Sch. II, *infra*.

only by or with the general or special permission of the officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the engineer.

opened or shut under authority of engineer.

23.[a] In any case where an embanked towpath has heretofore been maintained by Government alongside any canal, river, khal or channel, the engineer shall be entitled to appropriate without payment, as heretofore, land or earth for the maintenance, repair or reconstruction of such embanked towpath.

Power to appropriate land or earth for embanked towpath.

If in any case the engineer shall consider it necessary for the purposes of towing to enlarge an existing towpath, or to construct a new towpath, proceedings shall be taken in accordance with the subsequent provisions of this Act relating thereto.

24.[a] It shall be lawful for the engineer, or any person whom he may authorize in that behalf, in order to carry out any of the purposes of this Act,—

Power to enter and survey land, &c.

to enter upon, and survey, and take levels of any land ;

to dig or bore into the subsoil ;

to do all other acts necessary to ascertain whether the land is adapted to the purpose projected by such engineer or by the Collector ;

to set out the boundaries of the land proposed to be taken, and the intended line of the work proposed to be made thereon ;

Power to mark out line.

to mark such levels, boundaries and line, by placing marks and cutting trenches ;

and, where otherwise the survey cannot be completed or the levels taken, to cut down and clear away any part of any standing crop, fence or jungle :

Power to clear land.

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Previous notice of entry.

The engineer or other person so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector, and such decision shall be final.

Payment for damage.

PART V.

Acquisition of Land.

25[a]. Whenever in the course of proceedings under this Act, save in those

Acquisition of land.

[a] Ss. 23-25 have been repealed, except in Assam and possibly in Chota Nagpore, by Bengal Act II of 1882, s. 2—see Ben. Act II of 1882, s. 2, *infra*.

cases in which the Collector has proceeded under the provisions of Part III, it appears that land is required for any of the purposes thereof, proceedings shall be forthwith taken for the acquisition of such land in accordance with the provisions of the Land Acquisition Act, X of 1870,[a] or any other law for the time being for the acquisition of lands for public purposes.

When land taken, proclamation to be published.

26. Whenever any land shall have been taken or used under the provisions of Part III,[b] the Collector shall cause a proclamation[c] to be issued in form in Schedule C annexed to this Act at convenient places on or near the land so taken, stating that Government has taken possession of the land, and that claims to compensation for all interests in such land shall be made to him.

Thereupon the land shall vest absolutely in the Government free from all encumbrances, subject however to the claims for compensation to be ascertained in manner as in this Part[b] is provided.

Contents of proclamation.

27. Such proclamation shall state the particulars of the land so taken, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of issuing the proclamation), and to state the nature of their respective interests in the land, and the amount and particulars of their claims to compensation for such interest.

Further notice to be served on certain parties.

28. The Collector shall also serve notice[c] to the same effect on the occupier (if any) of such land, and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside, or have agents authorized to receive service on their behalf, within the revenue-district in which the land is situate.

Proceedings after notice.

29. After service of such notice proceedings shall be had and taken to determine the amount of compensation to be payable in respect of such land, in accordance with the provisions of the Land Acquisition Act, X of 1870,[a] or any other law for the time being in force for the acquisition of land for public purposes.

Compensation for consequential damage.

30.[d] Whenever any land other than land required or taken by the engineer or any right of fishery, right of drainage, right of the use of water or other right of property shall have been injuriously affected by the due exercise of the powers or provisions of this Act, the person in whom such property or right is vested may prefer a claim by petition to the Collector for compensation.

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[a] See General Acts, 1867—76, 2nd Ed., p. 177.

[b] In Bengal, read in s. 26 for "Part III" the words and figures "Part III of Bengal Act II of 1882", and for "this Part" the words and figures "Part V of Bengal Act II of 1882"—see Ben. Act II of 1882, s. 2 and Sch. II, *infra*.

[c] As to the mode of publishing proclamations mentioned in s. 26, and serving notices mentioned in s. 28, see Ben. Act II of 1882, ss. 2, 80 and 81, *infra*.

[d] S. 30 has been repealed, except in Assam and possibly in Chota Nagpore, by Ben. Act II of 1882, s. 2—see Ben. Act II of 1882, s. 2, *infra*.

31.[a] No claim shall be entertained which shall be made later than two years next after the completion of the work by which such right is injuriously affected. Application to be made within two years.

32.[a] When any such claim is made, proceedings shall be taken in view to determine the amount of compensation, if any, which should be made and the person to whom the same should be payable, in accordance with the provisions of the Land Acquisition Act, X of 1870,[b] or any other law for the time being in force for the acquisition of land for public purposes. Procedure for such compensation.

33.[a] In determining the amount of compensation to be awarded in such cases, the Judge and assessors shall take into consideration— Matters to be considered in determining compensation.

first, the market-value of the property or right injuriously affected at the time of acquiring the land;

secondly, the damage sustained by the claimant by reason of such acquisition injuriously affecting the property or right;

thirdly, the consequent diminution of the market-value of the property or right injuriously affected at the time of acquiring the land.

But the Judge or assessors shall not take into consideration— Matters not to be considered in determining compensation.

first, the degree of urgency which has led to the acquisition;

secondly, any damage sustained by the claimant, which, if caused by a private person, would not in any suit instituted against such person justify a decree for damages.

34.[a] All buildings, land, earth, pathways, sluices, gates, bermes, hedges, belonging to, or forming part of, any embankment or watercourse, of which charge has been or may hereafter be taken by the officers of Government, shall vest in the Government, and shall be held on behalf of the Government, in respect of the embankments mentioned in Schedule D annexed to this Act, and in respect of other works on behalf of the persons interested in the lands to be protected or benefited by such embankment or watercourse, subject to the provisions of section 63; and all moneys received on account of such lands shall be payable to the engineer and credited to the cost of the construction and maintenance of such works respectively. Land, &c., taken possession of to vest in Government.

BENGAL SECRETARIAT LIBRARY

PART VI.

Cost of Works, Proceedings, &c.

1. *Ascertainment thereof.*

35.[a] The provisions in this Part contained shall not apply to any of the Embankments

[a] Ss. 31-35 have been repealed, except in Assam and possibly in Chota Nagpore, by Ben. Act II of 1882, s. 2—see Ben. Act II of 1882, s. 2, *infra*.
[b] See General Acts, 1867—76, 2nd Ed., p. 177.

in Schedule D.

embankments mentioned in Schedule D to this Act annexed, save so far as any works or repairs are executed therein or in relation thereto under the provisions of section 4, clause 7, or section 20 of this Act; or to any of such embankments as may hereafter be erected for the protection of lands which at the time of the passing of this Act are protected by the embankments mentioned in the aforesaid schedule, save so far as the erection of such embankments may protect lands not protected by the embankments mentioned in the aforesaid schedule.

All sums payable in respect of any works or repairs executed therein, or in relation to the embankments mentioned in the aforesaid schedule, except under the provisions of section 4, clause 7, or section 20, of this Act, shall be paid by the Government.

Exclusion from schedule.

If at any time after the passing of this Act, on inquiry made by the Collector as far as possible in accordance with the provisions of Part II of this Act, it shall be found that it is unnecessary for the public interests to retain any embankment mentioned in Schedule D, the Lieutenant-Governor may direct that the same shall be no longer included in the said schedule:

Provided that the Lieutenant-Governor may restore the same to the said schedule if, on any subsequent inquiry similarly conducted, it shall appear to the Lieutenant-Governor that it is necessary so to do.

Addition to schedule.

The Lieutenant-Governor may at any time after the passing of this Act, by a notification published in the Calcutta Gazette, direct that any embankment not mentioned in Schedule D be included in the said schedule, and the provisions of this section shall apply to such embankment.

Contribution towards maintenance of certain embankments continued.

36.[a] In accordance with the custom heretofore in force in respect of the pergunnahs entered in Schedule E annexed to this Act, the Government shall continue to contribute annually the sum noted therein for each pergunnah respectively towards the maintenance of the embankments thereof.

If such embankments declared public, Collector to keep separate account.

If the embankments maintained in any such pergunnah shall at any time be declared to be public embankments under the provisions of section 4, the Collector shall, from the date of such declaration, keep a separate account for such pergunnah, in which the aforesaid sum shall be credited at the commencement of each financial year.

The unexpended balance at the close of each year shall be carried on to the credit of the account in the next succeeding year, and shall be available for the cost of repairing or erecting all the embankments which it may be deemed necessary to maintain in such pergunnah.

[a] S. 36 has been repealed, except in Assam and possibly in Chota Nagpore, by Ben. Act II of 1882, s. 2—see Ben. Act II of 1882, s. 2, *infra*.

If at any time after the passing of this Act, on an inquiry made by the Collector as far as possible in accordance with the provisions of Part II, it shall be found that is unnecessary for the public interest to retain any embankment in either of the said pergunnahs, the Lieutenant-Governor may direct that such contribution shall cease in respect of such pergunnah:

Contribution may be discontinued if it be found unnecessary for public interest to maintain embankments.

Provided that such contribution shall again be made in accordance with the provisions hereinbefore contained, if it shall appear to the Lieutenant-Governor, on the report of an inquiry similarly conducted, that the maintenance of any embankment in such pergunnah has again become necessary for the public interest.

Estimates and specifications to be prepared.

37.[a] Specifications of any works or repairs to be executed under the provisions of this Act, and estimates of the expenses to be incurred therein or relating thereto, including such proportion of establishment-charges as the Lieutenant-Governor shall direct, shall be prepared by the engineer as soon after the month of October in each year as may be practicable.

And, whenever it appears that the actual expenses to be incurred will exceed the amount mentioned in the said estimates by one-tenth, the engineer shall forthwith prepare further estimates, and, if necessary, further specifications.

Copies of all specifications and estimates shall be transmitted to the office of the Collector, together with vernacular translations thereof, or such abstracts thereof as the Lieutenant-Governor may from time to time direct, and may be examined by any person interested in such works or repairs.

Notice of the receipt of specifications and estimates shall be served for all estates chargeable for, or likely to be affected by, the said works or repairs; and, should any objection in regard to the amount of such expenses be preferred by any such person within a period of one month from the date of such notice, the Collector shall pass such orders as may appear to him reasonable and proper.

Such order shall be subject in any case to an appeal by the person making such objection to the Commissioner of division, whose decision shall be final.

Preparation and settlement of accounts.

38.[a] The accounts of the actual expense incurred in executing any works or repairs shall be prepared as soon as possible after the completion thereof.

The engineer shall sign a certificate stating the true amount of all such expenses, and the names of the estates chargeable for, and of the estates and villages affected by, the said works and repairs.

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[a] Ss. 37 and 38 have been repealed, except in Assam and possibly in Chota Nagpore, by Ben. Act II of 1882, s. 2—see Ben. Act II of 1882, s. 2, *infra*.

Copies of the said accounts and certificates shall be forwarded to the office of the Collector and may be there examined by any person interested.

Notice of the receipt thereof shall be served for the said estates and villages, and such others as in the opinion of the Collector are liable to contribute to the payment of the said amount; and if, within thirty days from the service of such notice, any interested person shall object to the accounts on the ground either that the work charged for has not been performed or that the whole sum charged has not been expended or that the rates of charge are higher than those mentioned in the estimates, the Collector shall inquire into such objection, and may pass any order thereon, subject in any case to an appeal by the objector to the Commissioner of division, whose decision shall be final.

Total sum payable.

39.[a] The Collector shall add to the amount appearing in the said certificate all sums which have been paid or have become payable in respect of compensation, costs and expenses under, and incidental to, any proceedings taken or directed to be taken under Parts II and V of this Act, including costs of all surveys and plans.

He shall thereupon make an order specifying the total sum found payable, and in respect of works done under section 4, clause 5, and sections 19 and 20, the persons by whom, or in respect of other works the estates in respect of which, the same is payable to him.

If the order is made in respect of work done under section 4, clause 5, and sections 19 and 20, the same shall forthwith be served upon the party or parties liable to pay; otherwise the Collector shall proceed under the provisions in the next chapter contained.

Interest.

Interest may be charged upon any sum paid as compensation from the date of payment thereof at such rate, not exceeding five per centum per annum, as the Lieutenant-Governor may direct.

Parties liable to pay.

40.[a] The said total sum, save so far as is otherwise provided in this Act, shall be paid to the Collector by the zamindárs of the estates in which are situated the lands benefited or protected by the repairs or works executed:

Provided that, where any specific sum has hitherto been annually demanded in respect of any embankment not included in Schedule D, and when the said embankment is at the time of this Act coming into operation being maintained by Government, then such special payments shall, after the passing of this Act, thenceforth cease and determine.

Every zamindár, who is liable under this rule for the payment of the whole or a portion of such total sum, shall be entitled to recover from the pro-

[a] Ss. 39 and 40 have been repealed, except in Assam and possibly in Chota Nagpore, by Ben. Act II of 1882, s. 2—[a] Ben. Act II of 1882, s. 2, *infra*.

prietor of every tenure which is declared to be a part of his estate the sum apportioned to such tenure by the Collector, under the provisions of section 45.

And, similarly, every proprietor shall be entitled to recover from the proprietor of any subordinate tenure which is declared to be a part of his tenure the sum apportioned to such subordinate tenure by the Collector, under the said provisions.

2. Apportionment thereof.

Notice to be given before apportionment.

41.[a] So soon as the total sum payable as aforesaid has been ascertained, the Collector shall cause a notice to be served for every one of the said estates and villages mentioned in section 38.

Every such notice shall specify the estates and villages aforesaid, and that an inquiry will be held at a day and place therein named for the purpose of apportioning amongst the zamindárs and proprietors the said total sum, with interest and the costs of apportionment.

Mode of inquiry as to proportion chargeable to each estate.

42.[a] On the day fixed in the said notice, which shall not be less than thirty days later than the date of any service of such notice, the Collector shall proceed to make the said inquiry.

In making this inquiry he shall receive such evidence as may be tendered by, or on behalf of, the said zamindárs and proprietors, and by, or on behalf of, any other persons who may claim to be interested therein.

Names of proprietors.

43.[a] In any such inquiry the Collector shall take down in writing the names of all persons who may claim, or who may be alleged by any party interested, to be proprietors of tenures within any of the estates mentioned in such notice.

In default of appearance of any such person, the Collector shall issue and serve a notice calling on him to appear at a date and place therein mentioned, and to shew cause against being included in the order of apportionment to be made therein, and shall adjourn the inquiry till such date.

Apportionment amongst zamindárs.

44.[a] At such or any subsequently adjourned inquiry, the Collector, if there be only one estate liable, shall charge the zamindár thereof with the total amount payable; and, if there be two or more estates, he shall apportion the same amongst the zamindárs thereof rateably in proportion to the respective benefits derived by such estates from such works or repairs; or in proportion to the areas of the lands benefited or protected thereby, and comprised within such estates respectively; or with the sanction of the Local Government in

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[a] Ss. 41-44 have been repealed, except in Assam and possibly in Chota Nagpore, by Ben. Act II of 1882, s. 2—see Ben. Act II of 1882, s. 2, *infra*.

proportion to the amount of revenue respectively payable for such estates, if, before the passing of this Act, such proportion has been usually adopted:

Provided that the said total amount payable in respect of the embankments on the right bank of the river Gandak shall be chargeable, in accordance with the custom in force for such estates, to the zamindárs of all the estates situated in the district of Sarun, in proportion to the amount of revenue respectively payable for such estates:

Proviso in respect of pergunnahs in Schedule E.

Provided also that the sum standing to the credit of a pergunnah in Schedule E in the account kept by the Collector, at the time when the total amount payable is fixed under the provisions of section 39, shall be deducted from the total amount payable in respect of such portion of any embankment as is situated in such pergunnah; and that the zamindárs of the estates situated therein shall be charged only with the balance of the amount (if any) which may remain payable.

Apportionment amongst proprietors.

45.[a] The Collector shall, in like manner, apportion, except in respect of the said Gandak embankments, the amount payable in respect of each estate amongst all the tenures therein rateably in the proportion of benefit so received or area so benefited or protected, first deducting therefrom such sum as on the like principle of proportion is payable in respect of such portion of the estate as is not included within any tenure.

Apportionment in case of lands held free of rent, not being estates on register of revenue-free tenures.

46.[a] All lands held without payment of rent not being estates entered in the register of revenue-free tenures shall, for the purposes of this Act, be deemed to form a part of the tenure within the local boundaries of which they are included; and if they are not included within the local boundaries of any tenure, then to be a part of the estate within the local boundaries of which they are included; and if they are not included within the local boundaries of any estate, then to be a part of such conterminous estate as the Collector in whose district such conterminous estate is situated shall, by an order under his seal and signature, declare.

Amount apportioned payable by instalments.

47.[a] The amount apportioned to any estate or tenure shall be payable in equal instalments on such days as the Lieutenant-Governor shall direct:

Provided that no instalment shall exceed four annas for every acre of land in respect of which the same is payable, and that not more than four instalments shall be payable in any one year.

Interest.

Interest shall be charged on the unpaid portion of the said amount from the date of the same becoming due until payment thereof, at such rate, not

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[a] Ss. 45-47 have been repealed, except in Assam and possibly in Chota Nagpore, by Ben. Act II of 1882, s. 2—see Ben. Act II of 1882, s. 2, *infra*.

exceeding five per centum per annum, as the Lieutenant-Governor shall from time to time determine.

Final order of apportionment.

48.[a] On the completion of the apportionment the Collector shall make an order specifying the estates and tenures, and the several sums payable in respect thereof, the instalments of such sums, and the dates on which the same are payable.

3. Recovery thereof.

Orders for payment.

49.[a] The Collector shall, within thirty days from the final order of apportionment, make and serve for every estate therein mentioned an order, stating the amount with interest due in respect thereof, and that the same is payable to him, and the date or dates at which such amount or instalments thereof shall become payable to him.

Recovery from zamindárs.

50.[a] If such sum or any instalment thereof be not, pursuant to the said order, paid, the same with interest shall be recoverable as arrears of a demand [b]under the provisions of Bengal Act VII of 1868[c] (*to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue*).[b]

Recovery by zamindárs or proprietors.

51.[a] Every zamindár or proprietor to whom any sum or instalment thereof is payable under the said order may recover the same with interest as aforesaid in the manner provided for the recovery of arrears of rent in respect of patni tenures by the provisions of clauses 2 and 3 of section 8, sections 9, 10, 14, 15, and clauses 1, 2 and 3 of section 17 of Regulation VIII of 1819,[d] as amended by Bengal Act VIII of 1865:[e]

Provided that the right or interest of any person holding from the proprietor of such tenure shall not be affected by any sale held under these provisions.

PART VII.

MISCELLANEOUS.

Penalty for obstructing persons in exercise of powers.

52.[a] Whoever wilfully obstructs any person duly authorized under this Act in removing or levelling any embankment, house, hut or other building, or in the lawful exercise of any of the powers in this Act conferred, shall, in case such obstruction shall not amount to an offence within the provisions of the

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[a] Ss. 48-52 have been repealed, except in Assam and possibly in Chota Nagpore, by Ben. Act II of 1882, s. 2—see Ben. Act II of 1882, s. 2, *infra*.

[b-b] This part of s. 50 has been repealed in Bengal and in the districts of Sylhet and Goálpára (excluding the Eastern Dwárs) by Ben. Act VII of 1880, s. 3. As to recovery of demands under s. 50, see ss. 7 (*3*) and 8 of that Act, *infra*.

[c] See *supra*, p. 116.

[d] See Vol. I, pp. 164, *et seq.*

[e] See *supra*, p. 42.

Indian Penal Code,[a] be liable to imprisonment of either description for any period not exceeding six months at the discretion of the Magistrate, or to a fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding six months. XLV of 1860.

Penalty on unauthorized interference with embankments or drainage.

53.[b] Every person who, without the previous permission of the engineer, shall erect, or cause, or wilfully permit to be erected, any new embankment, or shall obstruct or divert, or cause or wilfully permit to be obstructed or diverted, any watercourse, if such embankment or watercourse is likely to interfere with, counteract or impede any public embankment or any public watercourse, or shall abet any such act, shall be liable on conviction to a fine not exceeding five hundred rupees, or, in default of payment, to imprisonment of either description for a period not exceeding six months.

Penalties for injuring works.

54.[b] No person shall without due authority cut through, or attempt to cut through, any public embankment, or destroy or attempt to destroy any such embankment, or open or shut or obstruct any sluice in any such embankment or any public watercourse; and every person who shall commit any breach of the provisions of this section shall, in case the act shall not amount to mischief within the meaning of the Indian Penal Code,[a] be liable to imprisonment of either description for a term not exceeding one month, or to a fine not exceeding two hundred rupees. XLV of 1860.

Penalties for diverting rivers or permitting cattle to graze on embankments.

55.[b] Every person who shall make any dam or other obstruction for the purpose of diverting or opposing the current of a river wherein or whereon there are public embankments, without the permission of the officer in immediate charge of the embankments, or shall refuse or neglect to remove any such dam or obstruction when so required by the engineer, or shall cut or otherwise alter the banks of any embanked river, or shall remove the earth from any public embankment, or shall drive stakes into it, or by any other wilful act destroy or diminish the efficiency of such embankment, and every person who shall cause or knowingly and wilfully permit any cattle to graze upon any such embankment, or shall tether or cause or wilfully permit any cattle to be tethered upon any such embankment, or who shall root up any grass or other vegetation growing on any such embankment, shall be liable to imprisonment of either description for a term not exceeding six months, or to a fine not exceeding two hundred rupees.

Obstructions to be removed.

56.[b] Whenever any person is convicted of an offence under either of the three last preceding sections, the convicting Magistrate may order that he

[a] See General Acts, 1861-66, 2nd Ed., p. 240.

[b] Secs. 53-56 have been repealed, except in Assam and possibly in Chota Nagpore, by Ben. Act II of 1882, s. 2—see Ben. Act II of 1882, s. 2, *infra*.

shall remove the embankment or obstruction, or repair the damage, in respect of which the conviction is held, within a period to be fixed in such order. and damage repaired.

If such person neglects or refuses to obey such order within the fixed period, the engineer may remove such embankment or obstruction, or repair such damage, and the cost of such removal or repair shall be levied from such person in addition to any other penalty in the manner provided in sections 386, 387 and 389 of the Code of Criminal Procedure, 1882.[a] X of 1882

57.[b] Every proclamation, notice or order in and by this Act required to be served may, unless when otherwise provided, be served— Service.

(1) by delivering a copy of the same to the person to whom it is directed, or on failure of such service by posting a copy on some conspicuous part of the house in which the said person resides, or by delivering a copy to any agent authorized to appear generally for the person to whom such proclamation, notice or order is directed; or

(2) by sending a registered letter containing a copy of such proclamation, notice or order directed to the said person at his usual place of abode, or at the place where he may be known to reside; or

(3) by posting a copy of the proclamation, notice or order at the mál-kachahri of the estate, village or tenure to which the same relates; or, if no such mál-kachahri be found, on some conspicuous place on the said estate, village or tenure, and by delivering, in the case of estates paying their annual revenue by four instalments, another copy thereof to the agent who shall have paid an instalment of revenue next before or after the preparation of such proclamation, notice or order.

In all cases where two or more persons are holders of an estate, village or tenure, service under this clause shall be deemed to be good and sufficient service on each and all of such persons.

58.[b] No proceedings under this Act shall be impeached or affected by reason of any mistake in the name of any person thereby rendered liable to pay any sum of money, or in the description of any estate or tenure or land in respect of which he is rendered liable to pay: provided the directions of this Act be in substance and effect complied with; and no proceedings under this Act shall for want of form be quashed or set aside in any Court of Justice. No proceedings to be impeached for want of form.

59[b] Every order passed by the Collector in respect to applications under section 4, clauses 6 and 7, or under sections 8, 39 and 48, shall be appealable to the Commissioner of Revenue, and every order of the Commissioner, except when otherwise directed by this Act, shall be appealable to the Board of Appeal from orders made on objection.

[a] See Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p 350.

[b] Ss. 57-59 have been repealed, except in Assam and possibly in Chota Nagpore, by Ben. Act II of 1882, s. 2—see Ben. Act II of 1882, s. 2, *infra*.

Revenue, but no appeal shall lie under this section against any order unless the same be presented within one month from the date of the order.

Orders to be final.

60.[a] Subject to the right of appeal above mentioned and to the order and control of Government, every order passed under the provisions aforesaid shall be final and shall not be open to revision by any Civil Court.

Powers on inquiry and appeal.

61.[a] In any inquiry or appeal held under this Act the Collector and the Commissioner shall respectively have the same powers as those conferred on Courts by the Code of Civil Procedure,[b] of summoning and examining witnesses and compelling the production of documents. XIV of 1882.

General control of Commissioner and Government.

62.[a] All the powers of a Collector under this Act shall be exercised under the general control and orders of the Commissioner of the division, and all the powers of Collectors and Commissioners shall be exercised subject to the general control and orders of the Board of Revenue and of the Government.

Disposal of lands no longer required for embankments.

63.[a] Whenever the maintenance of any public embankment or the retention of any land appropriated to the purposes thereof may no longer be required, and the permanent relinquishment of the same may be deemed expedient, such land shall be conveyed by the Collector to the proprietor of the land, within the limits of which it may be situated, on payment of the compensation, if any, which was paid for such land when the same was taken for the purpose of the embankment.

If the proprietor of such lands refuse or neglect to pay such price within a reasonable time after demand, the same shall be sold by the Collector for such price as he can obtain for the same.

All sums obtained for the conveyance of lands under the provisions of this section shall, after the payment of all expenses incurred on account of the same, be applied to the payment of the cost of any new embankment or drainage-works affecting the said lands, and in such case the residue only of the cost of such new works shall be charged upon the zamindárs of estates benefited as hereinbefore provided.

Collector may delegate powers to Deputy Collector.

64.[a] A Collector may delegate any of his powers under this Act to a Deputy Collector, but from any order passed by a Deputy Collector to whom powers have been so delegated an appeal shall lie to the Collector if presented within thirty days of the date of the order.

Jurisdiction.

65.[a] All offences created by this Act shall be inquired into and tried by a Magistrate of the first or second class.

Saving of Bengal Act V of 1871

66.[a] Nothing in this Act shall affect the provisions of the Hooghly and Burdwan Drainage Act, 1871.[c] Ben. V. of 1871.

[a] Ss. 60-66 have been repealed, except in Assam and possibly in Chota Nagpore, by Ben. Act II of 1882, s. 2—see Ben. Act II of 1882, s. 2, *infra*.

[b] See Act XIV of 1882, s. 3, in General Acts, 1882—84, p. 32.

[c] Ben Act V of 1871 has been repealed by Ben. Act VI of 1880, s. 2.

SCHEDULE OF FORMS.

SCHEDULE A[a] (*referred to in section 5*).

All persons interested are hereby required to take notice that it is my intention to [*here state the nature of the work to be undertaken*] for the purpose of [*state the purpose*]. For the execution of this work the undermentioned land will be required to be taken up :—

1	2	3
Pergunnah in which land is situated.	Name of village in which land is situated.	Area of land.

Plans, specifications and estimates of the proposed work, together with a copy of the survey-map shewing the boundaries of the villages of the various estates likely to be affected by the said work, are open for inspection by any interested person at this office who is allowed to take copies thereof.

The total probable cost of such work will be the sum of rupees and the rate per acre of the area benefited or protected by the said work is estimated at rupees .

The following estates and villages will probably be affected by the work proposed [*here set out a list of the estates and villages*].

Any person interested and desirous of shewing cause against the execution of the works specified is hereby required to appear before the Collector for that purpose on the day of

The day of

A. B.,
Collector of

SCHEDULE B (*referred to in section 12*).

Notice is hereby given that, under the provisions of section 11 of the Bengal Embankment Act, 1873, the land hereunder specified has been taken up, and notice thereof has been given to the Collector of .

1	2	3
Pergunnah in which land is situated.	Name of village in which land is situated.	Approximate boundaries and area of land.

The day of .

A. B.,
Collector of .

[a] Sch. A has been repealed, except in Assam and possibly in Chota Nagpore, by Ben. Act II of 1882, s. 2—see Ben. Act II of 1882, s. 2, *infra*.

SCHEDULE C (*referred to in section 26*).

All persons interested are required to take notice that, under the provisions of section 11 of the Bengal Embankment Act, 1873, the Collector of has taken possession on account of the Government of [*here state particulars of the land taken*], and that claims to compensation for all interests in such land must be made to the Collector. All persons having any such claims are therefore required to appear personally or by agent on day of at , and to state the nature of their respective interests in such land, and the amount and particulars of their claims to compensation for such interests.

The day of

A. B.,
Collector of

SCHEDULE D[a] (*referred to in sections 34, 35 and 40*).

No. 1.

Right Embankment on the Shilái River from Ishnagar to Kolá.

This is a continuous line of embankment on the right bank of the Shilái river, 3 miles 4,780 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Ishnagar of pergunnah Bogri, and terminates at a masonry-pillar in the village of Kolá in the said pergunnah.

No. 2.

Right Embankment on the Shilái River from Chota Rúprám to Naruyá.

This is a continuous line of embankment on the right bank of the Shilái river, 4 miles 770 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Chota Rúprám of pergunnah Bogri, and terminates at a masonry-pillar in the village of Naruyá in the said pergunnah.

No. 3.

Right Embankment on the Shilái River from Shirámpur to Gánchiá.

This is a continuous line of embankment on the right bank of the Shilái

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[a] See ss. 4, 42 and 43 of Ben. Act II of 1882, *infra*.

river, 7 miles 2,686 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Shrirámpur of pergunnah Chandrakoná, and terminates at a masonry-pillar in the village of Gánchiá in the said pergunnah.

No. 4.

Left Embankment of the Shildi River from Karshi to Kalúkadi.

This is a continuous line of embankment on the left bank of the Shilái river, 6 miles 5,265 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Karshi of pergunnah Bogri, and terminates at a masonry-pillar in the village of Kalúkadi in the said pergunnah.

No. 5.

Left Embankment of the Shildi River from Bághpotá to Rádháchak.

This is a continuous line of embankment on the left bank of the Shilái river, 20 miles 680 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Bághpotá of pergunnah Chandkrakoná, and terminates at a masonry-pillar in the village of Rádháchak of pergunnah Baradá.

No. 6.

Left Embankment of the Dwárakeshwar and Sánkrá Rivers.

This is a continuous line of embankment on the left bank of the Dwárakeshwar and Sánkrá rivers, 5 miles 250 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Rámnagar of pergunnah Baydá, and terminates at a masonry-pillar in the village of Gásná of pergunnah Jáhánábád.

No. 7.

Right Embankment of the Dwárakeshwar and Jhumi Rivers.

This is a continuous line of embankment on the right bank of the Dwárakeshwar and Jhumi rivers, 6 miles 3,200 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Digdi of pergunnah Baydá, and terminates at a masonry-pillar in the village of Soi of pergunnah Baradá.

No. 8.

Left Embankment on the Bakshi Khál.

This is a continuous line of embankment on the left bank of the Bakshi Khál, 6 miles 4,330 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Bakshi of pergunnah Khariji Mandalghát, and near the junction of the Rúpnáráyan river and Bakshi Khál, and terminates at a masonry-pillar in the village of Gáighâti in the said pergunnah where the Gáighâti Khál leaves the Dámodar.

No. 9.

Right Embankment on the Rúpnáráyan River.

This is a continuous line of embankment on the right bank of the river Rúpnáráyan, 29 miles 2,373 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground distant 57 feet south-east by compass from the Máchnán masonry-sluice on the right bank of the Durbáchati Khál, in the village of Máchnán of pergunnah Mandalghát, and terminates at a masonry-pillar at the zero mile-post on the bank of the Tidal Canal, Reach I. This mile-post bears 500 feet south-west by compass from the Canal Toll-house, in the village of Kámálpur of pergunnah Mahishádal.

No. 10.

Right Embankment on the Páyrátungi Khál.

This is a continuous line of embankment on the right bank of the Páyrátungi Khál, 4,410 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Páyrátungi of pergunnah Tamoluk, on the Rúpnáráyan embankment, right bank, and terminates at a masonry-pillar distant 187 feet west of a temple on the Tamoluk road, in the village of Bárapadubasan in the said pergunnah.

No. 11.

Left Embankment on the Páyrátungi Khál.

This is a continuous line of embankment on the left bank of the Páyrátungi Khál, 4,870 feet, more or less, in length. It commences at a masonry-pillar in the ground in the village of Páyrátungi of pergunnah Tamoluk, and on the Rúpnáráyan embankment, right bank, and terminates at a masonry-pillar in the village of Bárapadubasan in the said pergunnah.

No. 12.

Right Embankment on the Gangákháli Khál.

This is a continuous line of embankment on the right bank of the Gangákháli Khál, 3 miles 3,430 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Sudhápur of pergunnah Tamoluk, on the Rúpnáráyan embankment, right bank, and terminates at a masonry-pillar distant 675 feet east of the Raghunáthpur masonry-sluice, in the village of Sayadpur in the said pergunnah.

No. 13.

Left Embankment on the Gangákháli Khál.

This is a continuous line of embankment on the left bank of the Gangákháli Khál, 3 miles 1,670 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Mahishdá of pergunnah Tamoluk, on the Rúpnáráyan embankment, right bank, and terminates at a masonry-pillar, distant 170 feet north-east of the Raghunáthpur masonry-sluice on the right bank of the Gangákháli Khál, in the village of Raghunáthpur in the said pergunnah.

No. 14.

Right Embankment on the Shuádighi Khál.

This is a continuous line of embankment on the right bank of the Shuádighi Khál, 2 miles 3,990 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Shuádighi of pergunnah Tamoluk, on the Rúpnáráyan embankment, right bank, and terminates at a masonry-pillar in the village of Jashomantapur in the said pergunnah.

No. 15.

Left Embankment on the Shuádighi Khál.

This is a continuous line of embankment on the left bank of the Shuádighi Khál, 2 miles 1,690 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Shuádighi of pergunnah Tamoluk, on the Rúpnáráyan embankment, right bank, and terminates at a masonry-pillar in the village of Hoglá in the said pergunnah.

No. 16.

Right Embankment on the Durbáchati Khál.

This is a continuous line of embankment on the right bank of the Durbáchati Khál, 1 mile 3,510 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground at a distance of 550 feet north-north-east of the Bhúdaha Factory chimney in the village of Bhúdaha of pergunnah Mandalghát, and terminates at a masonry-pillar distant 57 feet south-east of the Máchnán masonry-sluice in the village of Máchnán in the said pergunnah.

No. 17.

Mohankháli Circuit Embankment.

This is a circuit embankment 28 miles 3,258 feet, more or less, in length. It commences at a masonry-pillar fixed in the village of Kultikri where the Mohankháli river runs into the Rúpnáráyan river, and passing along the right bank of the Mohankháli river through the villages of Jothghanashyám, Sitápur Mánuyá to Basantapur, where the Mohankháli and Durbáchati rivers bifurcate, thence skirting the left bank of the Durbáchati river it passes through the villages of Shápur, Basáripur, and Brahmagriha to Káchda, thence skirting the Rúpnáráyan, right bank, it passes through the village of Dudhkomrá and Bághchená, and terminates at the masonry-pillar aforesaid.

No. 18.

Párná Circuit Embankment.

This is a circuit embankment 9 miles 3,640 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the left bank of the Shilái river at its junction with the Kánsái river near a temple in the village of Báragovinda, pergunnah Baradá. It passes through the villages of Barmadihi and Ránibázár, on the left bank of the Shilái river, and then along the right bank of the Kánta Khál through the villages of Bhángádaha, Párná, Barmadihijhil, Tabli, and Dharmapur, and terminates at the aforesaid pillar.

No. 19.

Chátál Circuit Embankment.

This is a circuit embankment 10 miles 1,850 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the left bank of the

Shilái river at its bifurcation with the Árgará river, and passing along the left bank of the Shilái river and through the villages of Shrirámpur, Básudevpur and Sinhapur, it skirts the right bank of the Árgará Khál through the villages of Rámchandrapur, Raghunáthchak and others, and terminates at the masonry-pillar aforesaid.

No. 20.

Shekhpur Circuit Embankment.

This is a circuit embankment 18 miles 5,108 feet, more or less, in length. It commences at a masonry-pillar built in the ground at the bifurcation of the rivers Sánkrá and Jhumi in the village of Shekhpur of pergunnah Baydá, and passing along the left bank of the Jhumi river through the villages of Shrimantapur, Ánandapur and Thákrunchak, thence along the right bank of the Sánkrá river through the villages of Narasinhachak, Kulát, Gujrát and others, terminates at the aforesaid masonry-pillar.

No. 21.

Khasbar Circuit Embankment.

This is a circuit embankment 5 miles 5,240 feet, more or less, in length. It commences at a masonry-pillar built in the ground at the point of bifurcation of the Jhumi and Ámdá rivers in the village of Lálchak, pergunnah Baradá, and passing along the right bank of the Jhumi river through the villages of Párvatichak, Prasádchak and Jaybágh, and thence along the left bank of the Ámdá river through the villages of Khásbar, Soi and Lálchak, it terminates at the aforesaid masonry-pillar.

No. 22.

Chetuya Circuit Embankment.

This is a circuit embankment 45 miles 1,420 feet, more or less, in length. It commences at a masonry-pillar built in the ground at the junction of the Rúpnáráyan river and Mohankháli khál in the village of Mahishghátá, pergunnah Khariji Mandalghát, and passing along the left bank of the Mohankháli khál through the villages of Dakhinbár, Gaurichak, Govindanagar, and Basantapur, thence along the left bank of the Kánsái river through the villages of Kolá, Maheshpur, Gokulnagar and Islámpur, thence along the right bank of the Shilái river through the villages of Surathpur, Raghunáthpur and Konnagar, to the junction of the Shilái and Rupnáráyan rivers at

Pratappur, and thence along the right bank of the Rúpnáráyan river through the villages of Harishpur, Jalkanárám, Ránichak and Gopiganja, it terminates at the aforesaid masonry-pillar.

No. 23.

Dushwáspur Circuit Embankment.

This is a circuit embankment 18 miles 2,350 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the right bank of the Kánsái river, distant 704 feet and bearing 20° from the Dushwáspur sluice in the village of Dushwáspur of pergunnah Chetuyá, and passing along the right bank of the Kánsái river through the villages of Nabindáspur, Kunjapur, Maheshpur, Telándi, and Brikshabánpur, thence passing along the left bank of the Petuyá khál through the villages of Fatehpur, Gadáipur and Dhánkholá, it terminates at another masonry-pillar in the village of Krittibaspur, pergunnah Chetuyá.

No. 24.

Náḍájol Embankment.

This is an embankment 7 miles 1,735 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the left bank of the Kánsái river in the village of Sámát, pergunnah Chetuyá, and passing along the left bank of the Kánsái river to the village of Madanmohanpur, and thence along the right bank of the Shilái river through the village of Rámadevpur, it terminates at another masonry-pillar in the village of Chandikháli, pergunnah Chetuyá.

No. 25.

Brindávanchack Embankment.

This is an embankment 2 miles 800 feet, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Brindávanchak, pergunnah Khariji Mandalghát, and running along the right bank of the Durbáchati Khál, terminates at another masonry-pillar in the same village.

No. 26.

Dhángaḍiyá Embankment.

This is an embankment 2 miles 2,520 feet, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Dhánga-

ḍiyá, pergunnah Jáhánábád, and running along the left bank of the Rúpnáráyan river, terminates at another masonry-pillar in the same village.

No. 27.

Right Embankment on the Ajay River.

This is a continuous line of embankment on the right bank of the Ajay river, 7 miles 3,980 feet, more on less, in length. It commences at a masonry-pillar fixed in the ground in the village of Gaurbázár of pergunnah Shergad, and terminates at a masonry-pillar at the junction of the Tumni Khal with the Ajay river in the village of Kájládihi of pergunnah Shanpáháḍi.

No. 28.

Right Embankment on the Ajay River.

This is a continuous line of embankment on the right bank of the Ajay river, 4 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground near a masonry-sluice near the junction of the Tumni and Bálpáháḍi Kháls in the village of Vishṇupur of pergunnah Shanpáháḍi, and terminates at a masonry-pillar in the village of Arjunbani in the said pergunnah.

No. 29.

Right Embankment on the Ajay River.

This is a continuous line of embankment on the right bank of the Ajay river, 11 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Sátkoniyá, pergunnah Shanpáháḍi, and terminates at a masonry-pillar in the village of Ságarpostá of pergunnah Gopibhúm.

No. 30.

Left Embankment on the Ajay River.

This is a continuous line of embankment on the left bank of the Ajay river, 3 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Sinhi of pergunnah Azmatsháhi, and terminates at a masonry-pillar in the village of Ráṇuniyá in the said pergunnah.

No. 31.

Right Embankment on the Dámodar River.

This is a continuous line of embankment on the right bank of the Dámodar river, 4,488 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Sádipur of pergunnah Háveli, and terminates at a masonry-pillar in the village of Krishṇapur in the said pergunnah.

No. 32.

Left Embankment on the Dámodar River.

This is a continuous line of embankment on the left bank of the Dámodar river, 107 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Shiliyá, pergunnah Champánagar, and terminates at a masonry-pillar in the village of Álipur of pergunnah Mandalghát.

No. 33.

Right Embankment on the Dámodar River.

This is a continuous line of embankment on the right bank of the Dámodar river, 1 mile 260 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Lákiyá, pergunnah Háveli, and terminates at a masonry-pillar in the village of Bedgrám in the said pergunnah.

No. 34.

Right Embankment on the Dámodar River.

This is a continuous line of embankment on the right bank of the Dámodar river, 3,828 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Balarámpur, pergunnah Háveli, and terminates at a masonry-pillar in the said village.

No. 35.

Right Embankment on the Dámodar River.

This is a continuous line of embankment on the right bank of the Dámodar river, 1 mile 528 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Jángirpur, pergunnah Háveli,

and terminates at a masonry-pillar in the village of Shrikrishnapur in the said pergunnah.

No. 36.

Right Embankment on the Dámodar River.

This is a continuous line of embankment on the right bank of the Dámodar river, 18 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Wazirpur, pergunnah Háveli, and terminates at a masonry-pillar in the village of Dihi Bársat of pergunnah Bársat.

No. 37.

Right Embankment on the Dámodar River.

This is a continuous line of embankment on the right bank of the Dámodar river, 29 miles 3,560 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground at the junction of the Gáighâti Khál with the Dámodar river in the village of Gáihátí, pergunnah Arsa, and terminates at a masonry-pillar at the junction of the Rúpnáráyan and Hooghly rivers at the thirty-second mile-post on the Rúpnáráyan left embankment in the village of Magrápáthar of pergunnah Mandalghát.

No. 38.

Left Embankment on the Rúpnárâyan River.

This is a continuous line of embankment on the left bank of the river Rúpnáráyan, 31 miles 3,762 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground at the junction of the Rúpnáráyan river and the Bákshi Khál in the village of Bakshi, pergunnah Mandalghát, and terminates at a masonry-pillar at the junction of the Hooghly and Rúpnáráyan rivers at the thirty-second mile-post of the Rúpnáráyan embankment in the village of Magrápáthar, pergunnah Mandalghát.

No. 39.

This is a continuous line of embankment 41 miles and 155 feet, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Khodálgobra, pergunnah Virakul, and, running generally parallel with the coast-line of the Bay of Bengal, terminates at a masonry-pillar on the

Kánthi and Khejri road on the right bank of the Rasulpur river in the village of Shyámchak, pergunnah Káoḍámál.

No. 40.

This is a continuous line of embankment 30 miles, more or less, in length. It commences at a masonry-pillar built in the ground on the Kánthi and Khejri road on the right bank of the Rasulpur river in the village of Shyámchak, pergunnah Káodámál, and running along the right bank of the Rasulpur river as far as the Kánthi and Tamoluk road, and thence along the right bank of the Shripái river, terminates at a masonry-pillar in the village of Atlágaḍi, pergunnah Májnámutá.

No. 41.

This is a circuit embankment on the right bank of the Rasulpur river, 2 miles 4,868 feet, more or less, in length. It commences and terminates at a masonry-pillar built in the ground in the village of Sánbeḍiyá, pergunnah Báhirimutá.

No. 42.

This is a continuous line of embankment 30 miles, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Átlágaḍi, pergunnah Májnámutá, and running along the left bank of the Shripái river as far as the village of Keshurkunda on the Kánthi and Midnapore road, and thence in a northerly direction to Chaumukh on the Bágdaha river, and thence along the right bank of the Báliaghái Khál to the east of the Dhubdá Jhil, terminates at a masonry-pillar on the sand-ridge in the village of Mádhavpur, pergunnah Bhograi.

No. 43.

This is a continuous line of embankment 17½ miles, more or less, in length. It commences at the great sea-dyke, east of the Pichabani sluice, on the left bank of the Pichabani khál, and running along the said bank as far as the masonry-pillar built in the ground in the village of Mádhavpur, pergunnah Bhográi, and thence along the right bank, terminates at the great sea-dyke west of the Pichabani sluice.

No. 44.

This is a circuit embankment on the right bank of the Bágdaha river, 3 miles 2,528 feet, more or less, in length. It commences and terminates at a masonry-pillar built in the ground in the village of Asthichak, pergunnah Páhádpur.

No. 45.

This is a continuous line of embankment, 95 miles, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Rámchak, pergunnah Sujámutá, and running along the left bank of the Ekhtiyárpur Khál to its junction with the Madhukháli river, thence running along the left bank of the Madhukháli river to the Chauddachuli Inspection Bungalow at the confluence of the Rasulpur river and the Kunjapur or Tálpati Khál, thence running along the left bank of the Kunjapur or Tálpati Khál to its embouchure in the Bay of Bengal, thence running parallel to the coast-line as far as the mouth of the river Haldi, thence following the right bank of this river as far as the junction of the Káliághái and Kánsái rivers, and lastly running along the right bank of the Káliághái river, terminates at a masonry-pillar at the village of Nilakanthapur, pergunnah Jalámutá.

No. 46.

This is a continuous line of embankment, 5 miles, more or less, in length, on the right bank of the Káliághái river. It commences at a masonry-pillar built in the ground in the village of Kharán, pergunnah Paṭáspur, and terminates at another masonry-pillar in the said village.

No. 47.

This is a circuit embankment, 34 miles 1,000 feet, more or less, in length. It commences at a masonry-pillar built in the ground near the Barju ghát in the village of Barju, pergunnah Nárnámuta, and running along the right bank of the Madhukháli river, the left bank of the Bágdaha river, and the right bank of the Chakbhaváni Khál, terminates at the aforesaid pillar. It passes through the villages of Barju, Shimulbaḍi, Dishimilá, Khamgáḍá, Idalpur, Kalarathári, Nishchintar, Ullálbár, Kanyábár, Bhástágáḍá, Khálá Kálkádári, Sundarpur, Mallikpur, Ballabhpur, Sukákholá, Udaypur, Gopálpur, Baḍaádápur, Tamalpur, Chákbátá, Kalsái, Kulbeḍiyá, Chakmáthuri, Chakhábani, Bhairavadári, South

Chánda, Mangalpur, Dakshindárá, Pratápdighi, Bámanbásan, Sitádighi, Krishnanagar, Páneshwari, Sháradabar, Mahurá, Chakrashál Khákuḍa, Mangalchak, Tonábilá, Arjunnagar, Puruliyá, Maheshdá, Khámgádá, Máldaha, Bárji, and pergunnahs Nárnámutá, Kismat Paṭáspur, Kismat Dánta, Kharáig, Pratápján, Patáspur and Bhátgaḍ.

No. 48.

This is a circuit embankment, 11 miles 1,541 feet, more or less, in length, lying between the Madhukháli river and Udbádal Khál. It commences at a masonry-pillar built in the ground at the junction of the Madhukháli river and Udbádal Khál in the village of Náturiyá, pergunnah Nárnámutá, and passing through the villages of Udbádal, Chámpáinagar, Kanáshdighi, Náthárá, Khátmári, Itabeḍiyá, Náudighi, Mánikjoḍ Hánsghariyá, Mánikjoḍ Básudevbeḍiyá, Pátarbeḍiyá, pergunnah Nárnámutá, terminates at the aforesaid pillar.

No. 49.

This is a circuit embankment, 11 miles 1,525 feet, more or less, in length, lying between the Ekhtiyárpur Khál, Madhukháli river, and Udbádal Khál. It commences at a masonry-pillar built in the ground at the junction of the Madhukháli river and Ekhtiyárpur Khál in the village of Raghunáthchak, pergunnah Nárnámutá, and running along the left bank of the Madhukháli river, left bank of the Udbádal Khál and right bank of the Ekhtiyárpur Khál, terminates at the aforesaid pillar. It passes through the villages of Udbádal, Pátná, Dumurdari, Padutárdi, South Biyadá, Ichhápur, Pánchghariyá, Bhúpatinagar, Raghunáthchak, Nandichak, Khorinet, Govindapur, Jaganmohanpur, Champáinagar, Khánjádápur, Udbádal, and the pergunnahs of Nárnámutá and Káoḍamál.

No. 50.

This is a continuous line of embankment. 3 miles 3,255 feet, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Rámchak, pergunnah Ságámutá, and running along the right bank of the Ekhtiyárpur Khál terminates at a pillar in the village of Rádhápur, pergunnah Erinchi.

No. 51.

This is a circuit embankment, 7 miles 2,735 feet, more or less, in length, between the Kálighái river and the Bágai Khál. It commences at a masonry-

pillar built in the ground at the junction of the Kálliághái river with the Bágai Khál in the village of Daropátná, pergunnah Paṭáspur, and passing through the villages of Gokulpur, Gholahát, Daropátná, pergunnah Paṭáspur, terminates at the aforesaid masonry-pillar.

No. 52.

This is circuit embankment 20 miles, more or less, in length. It commences at a masonry-pillar built in the ground on the south side of the junction of the Tálpati Khál with the Rasulpur river in the village of Gumgad, pergunnah Kasbá Hijli, and running along the left bank of the Rasulpur river to its confluence with the sea, then following the coast-line to the embouchure of the Tálpati Khál in the Bay of Bengal, and thence running along the south bank of the Tálpati Khál, terminates at the aforesaid pillar. It passes through the villages of Gorábár, Davichak, Dandachak, Kátká, Shyámpur, Bághá, Padurbeḍiyá, Nenapátá, Mohendranagar, Kalágachiyá, Pánchbaḍi, Osilchak, Honábediyá, Orakbeḍiyá, Sálkonḍá, Sáhebchak, Bámanchak, Baḍabáḍi, Phulbáḍi and Mulichak, all in the pergunnah Kaská Hijli.

No. 53.

This is a continuous line of embankment, 60 miles 4,110 feet, more or less in length. It commences at a masonry-pillar built in the ground on the left bank of the Kánsái river in the village of Bárgodá, pergunnah Tamoluk, and running along the left bank of the Káusái and Haldi rivers to the confluence of the latter with the river Hooghly, and thence along the right bank of the Hooghly and Rúpnáráyan rivers, terminates at a masonry-pillar in the village of Bánká, about one fourth of a mile north of a Hindu temple on the left bank of the Bánká Khál.

No. 54.

This is a circuit embankment, 12 miles 2,550 feet, more or less, in length, situated between the Káliághái and Kánsái rivers. It commences at a masonry-pillar built in the ground at the junction of the said rivers, and running along the left bank of the Káliághái river and the right bank of the Kánsái river, terminates at the aforesaid pillar. It passes through the villages of Parashu, Nonákhaḍi, Lakshmanpur, Nárikeldihi, Shunábhay, Áshnán, Chanddabeḍiyá, Máchodal, Kholákhál, Kálkádáḍi, Pánchpukuriyá, Krishnachak and Sálgeḍiyá, all in the pergunnah Tamoluk.

No. 55.

Rámpur Boáliyá old Embankment.

This is a continuous line of embankment on the left bank of the river Ganges, 17,700 feet in length, more or less. It commences at a masonry-pillar to be fixed in the ground at the village of Kasabpur, pergunnah Gharihát, and terminates at a masonry-pillar to be fixed at the village Taliyamari, pergunnah Lashkarpur.

No. 56.

Rámpur Boáliyá Embankment.

This is a continuous line of embankment on the left bank of the river Ganges, 8,130 feet in length, more or less. It commences at a masonry-pillar to be fixed in the ground at the village of Bolanpur, pergunnah Gharihát, and terminates at a masonry-pillar in the village of Kadalkáti, pergunnah Gharihát, where it joins the road to Dinagepore.

No. 57.

Máldaha Embankment.

This is a continuous line of embankment on the right bank of the Mahánadi river, 11,519 feet, more or less, in length. It commences at a masonry-pillar to be fixed in the ground at the village of Kutabpur, pergunnah Ámirábád, and terminates at a masonry-pillar in the village of Maheshpur, pergunnah Bhátiyá.

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No. 58.

Left Embankment on the River Hooghly.

This is a continuous embankment on the left bank of the river Hooghly, 5 miles 4,500 feet, more or less, in length. It commences at Manikháli Khál at a masonry-pillar fixed in the ground in the village of Jagannáthnagar, and terminates at a masonry-pillar in the village of Mijghar, on the north side of Chaḍiyal Khál, near the junction of the Hooghly river and Chaḍiyal Khál.

No. 59.

Right Bank of the Chaḍiyal Khál.

This is a continuous embankment on the right bank of the Chaḍiyal Khál, 2,780 feet, more or less, in length. It commences at a masonry-pillar in the village of Mijghar, on the north side of Chaḍiyal Khál, near the junction of Hooghly river and Chaḍiyal Khál, and terminates at a masonry-pillar in the village of Gharbanmoniyá, on the north bank of Chaḍiyal Khál, near the junction of Chaḍial Khál and the Calcutta and Áchipur road.

No. 60.

Left Bank of Chaḍiyal Khál.

This is a continuous embankment on the left bank of Chaḍiyal Khál, 3,280 feet, more or less, in length. It commences at a masonry-pillar in the village of Jaychandipur, near the junction of left bank of Chaḍiyal Khál and the Calcutta and Áchipur road, and terminates at a masonry-pillar in the said village of Jaychandipur, near the junction of river Hooghly and Chaḍiyal Khal.

No. 61.

Left Bank of Hooghly River.

This is a continuous embankment on the left bank of Hooghly river, 19 miles 1,320 feet, more or less, in length. It commences at a masonry-pillar in the village of Jaychandipur, near the junction of river Hooghly and Chaḍiyal Khál, and continues along the left bank of Hooghly river to PúJáli Khál, on both sides of PúJáli Khál, between the river Hooghly and the road leading from Calcutta to Áchipur, and again down the left bank of the river Hooghly to the right bank of Faltá Khál, and terminates at a masonry-pillar in the village of Faltá, near the junction of river Hooghly and Faltá Khál.

No. 62.

Right Bank of Faltá Khál.

This is a continuous embankment on the right bank of Faltá Khál, 2 miles 1,320 feet, more or less, in length. It commences at a masonry-pillar in the village of Faltá, on the north side of the khál, near the junction of river Hooghly and Faltá Khál, and terminates at a masonry-pillar on the right bank of Faltá Khál in the village of Sohárá.

No. 63.

Left Bank of Faltá Khál.

This is a continuous embankment on the left bank of Faltá Khál, 2 miles 1,360 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Faltá Khál, in the village of Básudiyápur, and terminates at a masonry-pillar on the left bank of the khál in the village of Tárágauj, near the junction of river Hooghly and Faltá Khál.

No. 64.

Left Bank of Hooghly River.

This is continuous embankment on the left bank of river Hooghly, 11 miles 2,780 feet, more or less, in length. It commences at a masonry-pillar in the village of Tárágauja, near the junction of river Hooghly and Faltá Khál, and terminates at a masonry-pillar in the village of Shimulganja, on the right bank of Khólákháli Khál, near its junction with Hooghly river.

No. 65.

Right Bank of Khólákháli Khál.

This is a continuous embankment on the right bank of Khólákháli Khál, 3,500 feet, more or less, in length. It commences at a masonry-pillar in the village of Shimulganja on the right bank of Khólákháli Khál, near its junction with Hooghly river, and terminates at a masonry-pillar on the right bank of the khál in the village of Darigovindapur.

No. 66.

Left Bank of Khólákháli Khál.

This is a continuous embankment on the left bank of Khólákháli Khál, 4,800 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Khólákháli Khál in the village of Jangalpáḍá, and terminates at a masonry-pillar on the left bank of the Khál in the village of Rámchandranagar, near the junction of Hooghly river and Khólákháli Khál.

No. 67.

Left Bank of Hooghly River.

This is a continuous embankment on the left bank of river Hooghly, 3 miles 2,260 feet, more or less, in length. It commences at a masonry-pillar in the village of Rámchandrapur, near the junction of Hooghly river and Khólákhóli Khál, and terminates at a masonry-pillar on the right bank of Diamond Harbour Creek in the village of Hájipur, near the junction of Hooghly river and Diamond Harbour Creek.

No. 68.

This is a continuous embankment on the right bank of Diamond Harbour Creek, 7 miles 3,100 feet, more or less, in length. It commences at a masonry-pillar on the right bank of Diamond Harbour Creek in the village of Hájipur, near the junction of Hooghly river and Diamond Harbour Creek, and terminates at a masonry-pillar on the right bank of Diamond Harbour Creek in the village of Diyárná.

No. 69.

Left Bank of Diamond Harbour Creek.

This is a continuous embankment on the left bank of Diamond Harbour Creek, 6 miles 680 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Diamond Harbour Creek in the village of Diyárná, and terminates at a masonry-pillar on the left bank of the Diamond Harbour Creek in the village of Mádhavpur, near the junction of Hooghly river and Diamond Harbour Creek.

No. 70.

Left Bank of the Hooghly River.

This is a continuous embankment on the left bank of river Hooghly, 8 miles, more or less, in length. It commences at a masonry-pillar on the left bank of Diamond Harbour Creek, in the village of Mádhavpur, near the junction of Hooghly river and Diamond Harbour Creek, and terminates at a masonry-pillar on the right bank of Kulpi Nadi in the village of Mashámári, near the junction of Hooghly river and Kulpi Nadi.

No. 71.

Right Bank of Kulpi Nadi.

This is a continuous embankment on the right bank of Kulpi Nadi, 1 mile, more or less, in length. It commences at a masonry-pillar on the the right bank of Kulpi Nadi in the village of Mashámári, and terminates at a masonry-pillar on the right bank of Kulpi Nadi in the village of Jánakimári.

No. 72.

Left Bank of Kulpi Nadi.

This is a continuous embankment on the left bank of Kulpi Nadi, 1 mile, more or less, in length. It commences at a masonry-pillar on the left bank of Kulpi Nadi in the village of Gauripur, and terminates at a masonry-pillar on the left bank of Kulpi Nadi in the village of Durgánagar, near the junction of Hooghly river and Kulpi Nadi.

No. 73.

Left Bank of River Hooghly.

This is a continuous embankment on the left bank of Hooghly river, 6 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Kulpi Nadi in the village of Durgánagar, near the junction of Hooghly river and Kulpi Nadi, and terminates at a masonry-pillar in the village of Chalámuri, near Chalámuri semaphore.

No. 74.

Sundarban Embankment.

This is a continuous embankment in the Sundarbans, 8 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar in the village of Chalámuri, near Chalámuri semaphore, and terminates at a masonry-pillar near the right bank of the Shrirámpur Khál in the village of Vaidyanáthpur.

No. 75.

Right Bank of Shrirámpur Khál.

This is a continuous embankment on the right bank of the Shrirámpur Khál, 6 miles 2,640 feet, more or less, in length. It commences at a masonry-

pillar on the right bank of Shrirámpur Khál in the village of Vaidyanáthpur, and terminates at a masonry-pillar in the village of Kontáheniyá.

No. 76.

Left Bank of Shrirámpur Khál.

This is a continuous embankment on the left bank of Shrirámpur Khál, 9 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar in the village of Kontáheniyá, and terminates at a masonry-pillar on the left bank of the Shrirámpur Khál in the village of Tákitpur Dighi.

No. 77.

Sundarban Embankment.

This is a continuous embankment in the Sundarbans, 26 miles, more or less, in length. It commences at a masonry-pillar on the left bank of Shrirámpur Khál in the village of Tákitpur Dighi, and terminates at a masonry-pillar on the right bank of Kháḍi Khál in the village of Gulárchánt.

No. 78.

Right Bank of Kháḍi Khál.

This is a continuous embankment on the right bank of Kháḍi khál, 3 miles 602 feet, more or less, in length. It commences at a masonry-pillar on the right bank of Kháḍi Khál in the village of Gulárchánt, and terminates at a masonry-pillar in the village of Meghibeḍ, near a drainage sluice.

No. 79.

Left Bank of Kháḍi Khál.

This is a continuous embankment on the left bank of Kháḍi Khál, 3 miles 2,040 feet, more or less, in length. It commences at a masonry-pillar in the village of Meghibeḍ, and terminates at a masonry-pillar on the left bank of the khál in the village of Kámáthátá.

No. 80.

Sundarban Embankment.

This is a continuous embankment in the Sundarbans, 19 miles, more or less, in length. It commences from a masonry-pillar on the left bank of the Khádi Khál in the village of Kámárhátá, and terminates at a masonry-pillar on the right bank of Piyáli river in the village of Talpi.

No. 81.

Right Bank of Piyáli River.

This is a continuous embankment on the right bank of Piyáli river, 3 miles, more or less, in length. It commences at a masonry-pillar on the right bank of Piyáli river in the village of Talpi, and terminates at a masonry-pillar on the right bank of the Piyáli river in the village of Chordákáiti.

No. 82.

Right Bank of Súrjyapur Khál.

This is a continuous embankment on the right bank of Súrjyapur, or Pashchanbáhan Khál, 8 miles, more or less, in length. It commences at a masonry-pillar on the right bank of Piyáli river in the village of Chordákáiti, and terminates at Pashchanbáhan sluice in the village of Bulbuliyá.

No. 83.

Left Bank of Súrjyapur Khál.

This is a continuous embankment on the left bank of Súrjyapur or Pashchanbáhan Khál, 4 miles 2,640 feet, more or less, in length. It commences at a Pashchanbáhan sluice in the village of Bulbuliyá and terminates at a masonry-pillar on the left bank of Súrjyapur Khál in the village of Rámnagur.

No. 84.

Right Bank of the Piyáli River.

This is a continuous embankment on the left side of Piyáli river, 9 miles 2,100 feet, more or less. It commences at a masonry-pillar on the left bank of

Súrjyapur Khál in the village of Rámnagar, and terminates at a masonry-pillar on the right bank of Vidyádhari river, in the village of Sángar, near the junction of Vidyádhari and Piyáli rivers.

No. 85.

Left Bank of Piyáli River.

This is a continuous embankment on the left bank of Piyáli river, 3 miles 3,960 feet, more or less, in length. It commences from a masonry-pillar on the left bank of Piyáli river in Sundarban Lot No. 45, and terminates in a masonry-pillar on the right bank of the Bághmári Khál in the village of Jalyerát, near the junction of Piyáli river with Bághmári Khál.

No. 86.

Left Bank of Bághmári Khál.

This is a continuous embankment on the left bank of the Bághmári Khál, 2 miles 2,640 feet, more or less, in length. It commences from a masonry-pillar in the village of Jalyerát, near the junction of Piyáli river and Bághmári Khál, and terminates at a masonry-pillar at the side of Mátlá road in the village of Át Rámdhar.

No. 87.

Right Bank of Bághmári Khál.

This is a continuous embankment on the right side of Bághmári Khál, 1 mile 1,320 feet, more or less, in length. It commences at a masonry-pillar at the side of Mátlá road in the village of Kulari, and terminates at a masonry-pillar on the left bank of Piyáli river in the village of Kist Kálábaruyi.

No. 88.

Left Bank of Piyáli River.

This is a continuous embankment on the left bank of the Piyáli river, 4 miles 2,460 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Piyáli river in the village of Kist Kálábaruyi, and terminates at a masonry-pillar in the village of Pavan, about a quarter of a mile north of the Calcutta and South-Eastern Railway.

No. 89.

Left Bank of Piyáli River.

This is a continuous embankment on the left bank of Piyáli river, 2 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar in the village of Shrikrishnapur, and terminates at a masonry-pillar on the right bank of Vidyádhari river, near the junction of Vidyádhari and Piyáli rivers.

No. 90.

Right Bank of Vidyádhari River.

This is a continuous embankment on the right bank of Vidyádhari river, 8 miles, more or less, in length. It commences at a masonry-pillar on the right bank of Vidyádhari river in the village of Báliyápur, and terminates in a masonry-pillar on the right bank of the same river, near the junction of Vidyádhari and Piyáli rivers.

No. 91.

Right Bank of Vidyádhari.

This is a continuous embankment on the right bank of Vidyádhari river, 2 miles 3,120 feet, more or less, in length. It commences at a masonry-pillar near the junction of the Vidyádhari and Piyáli rivers in the village of Sángar, and terminates at a masonry-pillar on the right bank of Vidyádhari river near its junction with Tolly's Canal in the village of Pratápnagar.

No. 92.

South side of Tolly's Canal.

This is a continuous embankment on south side of Tolly's Canal, 10 miles, more or less, in length. It commences at a masonry-pillar on the right bank of Vidyádhari river, near the junction of Vidyadhari river and Tolly's Canal, in the village of Pratápnagar, and terminates at a masonry-pillar on the south side of Tolly's Canal in the village of Karmábad.

No. 93.

North side of Tolly's Canal.

This is a continuous line of embankment on the north side of Tolly's Canal, 2 miles 4,020 feet, more or less, in length. It commences at a masonry-pillar

on the north side of Tolly's Canal in the village of Naoyábád, and terminates at a masonry-pillar in the jungle in the village of Tehuráhá.

No. 94.

Bhágirathi Embankments.

This is a line of disconnected embankment on the left bank of the Bhágirathi river, extending from Paláshi bázár, pergunnah Paláshí, district Nuddea, to Dádmati, pergunnah Rokanpur, district Moorshedabad, a distance of about 93 miles.

No. 95.

Kánchikátá Embankment.

This is a continuous line of embankment about 4,000 feet in length on the right bank of the Mátábhángá river. It commences in the village of Lakshmipur, pergunnah Bájpur, district Nuddea, and terminates at the bottom of the new cut opposite the village of Rádhákántapur in the same pergunnah and district.

SCHEDULE E[a] (*referred to in sections 36 and 44*).

Pergunnah.	District.	Amount of contribution.
		Rs. A. P.
Fatehsinha	Moorshedabad	1,706 10 8
Rukanpur	Ditto	1,466 2 0

ACT No. I OF 1874.[b]

Received the Lieutenant-Governor's assent on the 6th December, 1873, and the Governor General's assent on the 3rd January, 1874.

An Act to amend Act II of 1866[c] of the Council of the Lieutenant-Governor of Bengal.

WHEREAS the cases made punishable under Act II of 1866[c] of the Lieutenant-Governor of Bengal in Council (*an Act to provide for the better* Preamble.

[a] See ss. 44 and 54 of Ben. Act II of 1882, *infra*.

[b] This Act has been declared in force, under s. 3 of the Scheduled Districts Act, 1874, in the Districts of Sylhet, Kámrúp, Nowgong, Darrang, Sibságar, Lakhimpur, Goálpára (excluding the Eastern Dwárs) and Cachar (excluding the North Cachar Hills)—see Appendix to Assam Supplement.

The Act having been repealed, so far as it relates to Act XXI of 1856, the portions of the preamble and ss. 1 and 2 which referred to that Act have been omitted—see Ben. Act VII of 1878, Sch., *infra*.

[c] See *supra*, p. 46.

regulation of the Police within the suburbs of Calcutta) can, under section 49 of that Act, be tried by a Magistrate of less than full powers, only when they are referred to him by the District Magistrate; and whereas further by Act X of 1882 (the Code of Criminal Procedure, 1882,[a]) new rules have been enacted assigning and regulating the powers of Magistrates of the first, second and third classes;

It is hereby enacted as follows:—

Repeal of s. 49 of Ben. Act II of 1866.

1. Section 49 of Act II of 1866 of the Lieutenant-Governor of Bengal in Council is hereby repealed.

Offences to be enquired into and tried under Criminal Procedure Code.

2. The offences punishable under the said Act II of 1866 shall be enquired into and tried under the provisions of sections 5 and 29 of the Code of Criminal Procedure, 1882.[a] X of 1882.

ACT No. IV OF 1875.

Received the Lieutenant-Governor's assent on the 20th February, 1875, and the Governor General's assent on the 25th June, 1875.

An Act to provide for the summary realization of sums due on account of loans made by the Government during the late famine-operations.

Preamble.

WHEREAS it is expedient to provide for the summary realization of sums due on account of loans of money and grain made by the Government to zamindárs and raiyats during the years one thousand eight hundred and seventy-three and one thousand eight hundred and seventy-four; It is enacted as follows:—

Sums payable to Government in respect of loans.

1. Any sum payable to the Government by any person or collection of persons in respect of any loan of money or grain made to him or them, or to any other person on his or their security, by the Government, shall be deemed to be a demand.[b]

Recovery by landholders, &c., of money for which they have become security.

2. When any landholder, or any collection of villagers, has become security for the repayment of money payable in respect of any such loan as is mentioned in the last preceding section, and such landholder or collection of villagers, or any villager being one of such collection, has in consequence made to the Government payment of any sum of money due from any person liable to repay such loan, such landholder, or collection of villagers or villager, may give to the Collector of the district in which such person resides a notice

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[a] See Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

[b] The rest of s. 1, which was repealed by Ben. Act VII of 1880, s. 3, has here been omitted. As to recovery of demands under s. 1, see ss. 7 (3) and 8 of that Act, *infra*.

in writing in the form in Schedule B[a] annexed to the said Bengal Act No. VII of 1868, showing the amount due to him or them in respect of such payment; and if the Collector have reason to believe that any sum is due to such landholder, or collection of villagers or villager, in respect of such payment, he may make under his hand a certificate of the sum due in a form similar to that in Schedule A[a] to the said Act annexed, and shall cause the same to be filed in his office, and every certificate so made shall be deemed to be a certificate made in pursuance of section 19[a] of the said Act;

and, in respect of the sum so certified to be due, such landholder, or collection of villagers or villager, shall, as assignee or assignees of the Government, be deemed to be the plaintiff or plaintiffs in the place of the Government within the meaning of section 20[a] of the said Act:

and all provisions[a] in the said Act relating to the realization of arrears of demand shall, as far as possible, be applicable to all proceedings under this section, as if such provisions were here repeated and re-enacted with reference thereto.

3. This Act shall apply only to loans of money or grain made during the twelve months preceding the first day of November one thousand eight hundred and seventy-four. Application of Act.

4. This Act shall be read with, and taken as part of, the said Bengal Act No. VII of 1868.[b] Construction.

ACT No. V OF 1875.[c]

Received the Lieutenant-Governor's assent on the 25th August, 1875, and the Governor General's assent on the 23rd September, 1875.

An Act to provide for the survey and demarcation of land.

WHEREAS it is expedient, with a view to the definition and identification of lands, the better security of landed property and the prevention of encroachments and disputes, to provide for the survey of lands and for the establishment and maintenance of marks to distinguish boundaries; It is hereby enacted as follows:— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called the Bengal Survey Act, 1875, and shall Commencement.

[a] Ss. 19 and 20 of Ben. Act VII of 1868, and other provisions of that Act relating to recovery of public demands, have been repealed by Ben. Act VII of 1880. Schedules A and B of the former Act have not been reprinted—see p. 121, *supra*.

[b] See *supra*, p. 116.

[c] This Act has been declared in force, under s. 3 of the Scheduled Districts Act, 1874, in the Districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see Vol. I, p. 678.

It has been extended, under s. 5 of the same Act, to the Districts of Sylhet, Goálpára and Cachar—see Appendix to Assam Supplement.

come into force from the date[a] on which it may be published with the assent of the Governor General.

Local extent. It extends to the territories for the time being subject to the Lieutenant-Governor of Bengal.

Interpretation-clause. 2. In this Act, unless there be something repugnant in the subject or context,—

"Collector." "Collector" means every Collector of a district, and includes every officer either generally or specially vested with the powers of a Collector for the purposes of this Act:

"Deputy Collector." "Deputy Collector" includes any Deputy Collector to whom the Collector or Superintendent of Survey may delegate any of his functions under this Act:

"Estate." "estate" means—

any land which is entered on the revenue-roll as separately assessed with the public revenue;

any land acquired from the Government under one title, which is liable to pay land-revenue at any future time;

any char or island thrown up in a navigable river or in the sea which under the laws in force is at the disposal of the Government;

any land which is entered on the Collector's registers as a separate holding, free in perpetuity from liability to pay land-revenue:

any land gained by alluvion or by dereliction of a river or of the sea to any estate as here defined, which, under the laws in force, is considered an increment to the tenure to which such land has accreted, shall be deemed a part of such estate:

"Mauza." "mauza" includes every village, hamlet, tola and similar subdivision of an estate, pergunnah or village by whatever name such subdivision may be known:

"Occupant." "occupant" includes every zamindár, tenure-holder, farmer and other person entitled to receive rents in respect of land, or holding land on a claim that he is so entitled, and every raiyat in occupation of land:

"Section." "section" means a section of this Act:

"Survey." "survey" includes identification of boundaries, and all other operations antecedent to and connected with survey:

"Tenure." "tenure" includes all permanent interests in land, with the exception of estates as above defined, and with the exception of those of raiyats having a right of occupancy only; it also includes all ghátwáli holdings:

"Tenure-holder." "tenure-holder" means all or any of the holders of a tenure:

"Zamindár." "zamindár" means all or any of the holders of an estate.

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[a] *i.e.*, the 6th October, 1875.

PART II.

Of the Survey.

3. The Lieutenant-Governor may, whenever he shall think fit, order that a survey shall be made of the lands situated in any district or in any part of a district, or in any specified tract of country, and that the boundaries of estates, tenures, mauzas or fields be demarcated on the lands so to be surveyed:

Lieutenant-Governor may order survey.

Provided that, in any district of which a survey may have been completed and approved by the Government, it shall not be lawful for the Lieutenant-Governor to order a new survey of lands on the banks of rivers or on the sea-shore to be made for the purposes described in Act IX of 1847 [a] (*an Act regarding the assessment of land gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Behar and Orissa*), until ten years shall have expired from the completion and approval of any such previous survey.

4. For the purpose of carrying out any survey directed to be made under the last preceding section, or for any or all of the purposes of this Act,

Lieutenant-Governor may appoint Superintendent of Survey.

the Lieutenant-Governor may appoint a Superintendent of Survey, who may exercise all or any of the powers of a Collector under this Act;

and may appoint one or more Assistant Superintendents and Deputy Collectors, who shall exercise all the powers of a Collector in respect to such matters under this Act as may be delegated to such Assistant Superintendents or Deputy Collectors respectively by the Collector or Superintendent of Survey, and not otherwise:

Provided that, notwithstanding the appointment of a Superintendent of Survey for any tract of country, it shall be competent to the Board of Revenue to direct that the Collector shall perform any duties under the Act within the said tract.

5. Before entering on any lands for the purpose of a survey, the Collector shall cause to be published a proclamation addressed to the occupants of the lands which are about to be surveyed, and of the conterminous lands, and to all persons employed on, or connected with the management of, or otherwise interested in, such lands, calling upon them to attend, either personally or by agent, before the Collector or any officer authorized by the Collector in that behalf, at such places and at such times as shall be stated in such proclamation, during the demarcation and survey of the land, for the purpose of

Collector to publish proclamation before entering on lands.

[a] See Vol. I, p. 278.

pointing out the boundaries and of rendering such aid as may be necessary in setting up or repairing such boundary-marks as may be required, and of affording such assistance and information as may be needed for the purposes of this Act.

Such proclamation shall be published by posting a copy thereof—

at the Court of the Judge and at the office of the Collector of every district within which any portion of the lands about to be surveyed may be known to be situated:

at every subdivisional office, police-station, Munsif's Court and sub-registrar's office within the jurisdiction of which any portion of the land about to be surveyed may be known to be situated;

at one or more mál-kachahris on each estate; and at such other place or places as to the Collector may seem fit.

Collector may enter upon land.

6. After issue of a proclamation as aforesaid, the Collector and any persons acting under his authority may enter upon such lands, and do all things and make all enquiries necessary for effecting the survey and demarcation of the boundaries thereof.

Collector may serve special notice.

7. The Collector may also, by a special notice, require any such person to attend before him, or before any person authorized by the Collector in that behalf, within a specified time, which shall not be less than fifteen days after the service of the notice, at any places, for any of the purposes aforesaid; and every person on whom such special notice may be served shall be legally bound to attend as required by the notice, and to do any of the things mentioned in section 5, and to give any information which may be required, so far as he may be able to give it.

Collector to pay price of materials or labour supplied.

8. When any materials or labour shall have been supplied for any of the purposes mentioned in section 5, the Collector or other officer making a requisition under that section shall forthwith cause the price of such materials or labour to be paid to the person by whom the same were supplied.

Collector may require occupants to clear boundary-lines.

9. The Collector or other survey-officer authorized by the Collector in that behalf may, by a special notice, require any occupant to clear any boundary or other line which it may be necessary to clear for the purposes of the survey, by cutting down and removing any trees, jungle, fences or standing crops.

Compensation.

10. If any demand for compensation be made in respect of the clearance of any line in accordance with a requisition under the last preceding section, the Collector shall ascertain and record the nature and estimated value of any trees, jungle, fences or standing crops which may have been cut down or removed, and shall offer adequate compensation to the owners thereof, to-

gether with payment for all expenses incurred in carrying out the said requisition.

Amin or survey-officer to call upon persons to sign maps or papers.

11. When the demarcation of a village or other convenient tract has been completed, the amin or other survey-officer shall, before sending in to the Collector the maps and papers relating thereto, by a general notice in which the names of all persons required to appear shall be specified, and which shall be posted up at a convenient place in the village or tract, call upon all persons who have pointed out any boundaries in such village or tract on behalf of those interested to attend before him within three days of the publication of the said notice for the purpose of inspecting the maps, field-books and similar papers in which any boundary pointed out by any such person has been represented, and by signing such maps and papers to certify that the boundaries have been laid down in accordance with the boundaries pointed out by them; and every person so called upon shall be legally bound to attend before such amin or survey-officer, and to inspect the papers, in accordance with such requisition.

Statement of objections.

Any person so called upon who may object to sign the maps and papers as aforesaid shall be required to state his objections in writing, and such statement shall be attached to the record of the demarcation of the village or tract, and shall be submitted to the Collector together with the maps and papers.

Effect of signature.

The signature affixed to any maps or papers under this section shall be in attestation of the fact that the boundaries thereon represented, or any of them, have been represented in accordance with those pointed out by the person signing; and the affixing of such signature shall not be held to prejudice the right of any person interested to make any objection to such boundaries on any other ground before the Collector under the next succeeding section.

On receipt of maps, Collector to post notification in office.

12. On receipt in the Collector's office of the maps or papers showing any boundaries which have been demarcated, the Collector shall cause a notification to be posted in his office, and in such other places as he may think proper, informing all persons concerned that the maps and papers relating to the boundaries in the village or tract specified are open to inspection; and requiring any person who may have any objections to prefer, to prefer such objections within six weeks of the date of the posting of such notification, after which time the Collector will proceed finally to confirm the boundaries as laid down for the purposes of the survey.

Collector when to issue special notice.

Whenever the Collector shall have reason to believe (either from the failure of any person interested or his representatives to sign the maps and papers on the spot when required by the survey-officer to do so under the last preceding section, or for any other reason) that any zamindár or person interested is

likely to object to any boundary as laid down or as represented in the said papers, the Collector shall cause a special notice requiring such zamindár or other person to attend personally or by duly authorized agent before him, or before any person authorized by the Collector in that behalf, within a specified time, which shall not be less than one month after the service of the notice, for the purpose of signing and thereby admitting the correctness of any maps or other papers which have been prepared under this Act in respect of any boundary in which such zamindár or other person is interested, or of stating in writing the substance of any objection which he may wish to prefer against the correctness of such maps or papers; and, if any person so summoned shall fail to attend and to sign the said maps or papers, or to give in a written statement of his objections within the time prescribed, the Collector may proceed finally to confirm the boundaries as represented in such maps and papers, for the purposes of the survey and of this Act:

If agent deposits expenses of making copies, Collector to order them to be prepared.

Provided that, if within the time specified any such duly authorized agent deposits with the Collector the necessary expenses of making copies of the said maps or papers, the Collector shall order such copies to be prepared, and as soon as they are prepared shall cause a notice to that effect to be posted at his office, and the said agent shall be allowed such time as may be specified in such notice, not being less than fifteen days from the posting thereof, for the purpose of signing or of giving in a written statement of objections.

Procedure when objection is stated.

When a written statement of objections has been given in, as in this section provided, the Collector, after holding any further enquiry which he may deem necessary, shall pass such order in respect of such objections as to him shall seem fit; and, if the objections shall seem to him not to be well-founded, shall direct that all expenses of such further enquiry, and all expenses entailed on any other person by such enquiry, shall be recovered from the person who made the objection.

Person making subsequent objection may be required to deposit costs of further enquiry.

13. Whenever any person, having failed to sign the maps and papers, or to give in his objections in writing within the time prescribed by the notification or by the special notice mentioned in the last preceding section, shall, at any time before the Collector has finally confirmed the boundaries for the purposes of the survey, prefer any subsequent objection against the correctness of any maps or papers in respect of which such notification or notice was issued, the Collector shall require him to deposit the estimated costs of any further enquiry which it may be necessary to make in respect of his objection; and, if the said person shall fail to deposit such costs within the time specified by the Collector, he shall be deemed for all purposes of this Act to have admitted the correctness of the said maps and papers.

If the costs of any enquiry which may be deemed necessary be deposited, the Collector shall make such further enquiry at the expense of the person so objecting; and, if the objection shall seem to the Collector not to be well-founded, he may pass such order as he shall think fit in respect of the recovery from the objector of any sum expended by the Collector on the enquiry in excess of the sum deposited, and of any necessary expenses incurred by any other persons on account of such enquiry:

Provided that no person so making an objection after the prescribed time shall, under any circumstances, be entitled to recover the expenses which he is required to deposit before any further enquiry is made in respect of such subsequent objection.

PART III.

Of Boundary-marks.

Collector may erect temporary boundary-marks.

14. The Collector may cause to be erected temporary boundary-marks of such materials, and in such number and manner, as he may direct, on any lands to be surveyed under this Act;

and may require any occupant of land to maintain and keep in repair such marks or any boundary-marks,

until any survey-operations shall be concluded and a final award given as to any disputed boundary, or

until permanent boundary-marks may be erected in lieu thereof as hereinafter provided.

Collector may erect permanent boundary-marks.

15. The Collector may at any time cause to be erected on any land which is to be, or which has been, surveyed under this Act, permanent boundary-marks of such materials, and in such number and manner, as he may determine to be sufficient to distinguish the boundaries of the estates, tenures, mauzas or fields for which the same are to be erected:

Specification of marks and estimate of cost to be posted.

Provided that, seven days before he proceeds to the erection of any permanent boundary-marks, the Collector shall, for the information of all concerned, cause to be posted in his office, and in the mál-kachahri or at some other convenient place on every estate concerned, a specification of the number and character of the marks which he proposes to erect on the estate and an estimate of their cost.

Apportionment of expenses.

16. All expenses incurred by the Collector in erecting temporary or permanent boundary-marks under this Act shall, in manner hereinafter provided, be

apportioned among, and levied from, the zamindárs and tenure-holders on their estates:

Provided that no tenure-holder shall be liable to pay any portion of the expenses incurred by the erection of boundary-marks on an estate, unless some portion of his tenure is situated within fifteen hundred feet of some such boundary-mark.

Rent-free lands deemed part of tenure.

17. All lands held without payment of rent, not being entered on the Collector's register of revenue-free tenures of the district, shall, for the purposes of this Act, be deemed to form a part of the tenure within the local boundaries of which they may be included; and if they be not included within the local boundary of any tenure, then to be a part of the estate within the local boundaries of which they are included, and if they be not included within the local boundaries of any one estate, then to be a part of such conterminous estate as the Collector in whose district such conterminous estate is situated shall, by an order under his seal, appoint:

Provided that no rent-free holding of which the annual value is less than five rupees shall be liable to pay any portion of the expenses of erecting boundary-marks under this Act.

Procedure when occupant fails to maintain boundary-mark.

18. If any occupant on whom a requisition has been made under section 14 fails to maintain or keep in repair any temporary boundary-mark, the Collector may maintain, keep in repair or restore any such boundary-mark, and the expenses thereby incurred shall be recovered as provided in section 57 from the person so failing to maintain or keep in repair any such boundary-mark.

Zamindár, &c., bound to preserve boundary-marks and give notice to Collector when injured.

19.[a] Every zamindár, tenure-holder and farmer of land shall be legally bound to preserve, as far as lies in his power, such of the permanent boundary-marks lawfully erected on his estate, tenure or farm, or on the boundary between his estate, tenure or farm, and any other estate, tenure or farm, as may be assigned to him in that respect entirely, or jointly with other persons, under the provisions of section 29, and shall give immediate notice to the Collector if any such marks are injured, destroyed or removed, or require repairs.

Collector may re-erect injured boundary-mark and recover expenses from zamindár, &c.

20.[a] Whenever it shall come to the notice of the Collector that any permanent boundary-mark erected under the provisions of this Act has been injured, destroyed or removed, or requires repairs, the Collector may cause such boundary-mark to be re-erected, restored or repaired, and may recover any expenses incurred in respect of such re-erection, restoration or repair, in such propor-

[a] As to the application of ss 19 and 20 to boundary-marks erected under the Estates' Partition Act, 1876, see Ben Act VIII of 1876, s. 126, *infra*.

tions as he shall think fit, from the zamindárs and tenure-holders to whom such boundary-mark may have been assigned in that respect under the provisions of section 29, and all such expenses shall be recoverable as provided in section 57.

Collector may cause boundary-mark to be erected by occupant of land with his consent.

21. Nothing contained in this Act shall be held to prohibit the Collector from causing any temporary or permanent marks to be erected, maintained or repaired by any occupant of land, under the directions of the said Collector, and with the consent of such occupant.

The Collector shall repay to such occupant the expenses incurred in such erection or repair, and such expenses shall be apportioned and recovered as provided in Part IV.

PART IV.

Of the Apportionment and Recovery of Expenses.

Collector to prepare statement of expenses in respect of boundary-marks.

22. Upon the completion of the erection of boundary-marks on any tract of land of which the survey may have been ordered, or on any convenient portion thereof, the Collector shall forthwith prepare a statement of all expenses incurred in respect of such boundary-marks.

Contents of statement.

23. Such statement shall show the total number of marks of each description which have been erected on such tract or portion of such tract, the aggregate cost of erecting all the marks of each description, the names of the estates and mauzas within, or on the boundaries of, which any marks have been erected, and the total number of marks of each description erected within or on the boundary of each estate.

Collector to apportion cost of erecting marks among estates

24. Upon the completion of such statement the Collector shall provisionally apportion the aggregate expenses of erecting the marks among the estates specified, with reference to the number of boundary-marks of each description which have been erected within or on the boundary of each estate.

Notice to be served.

25. So soon as the provisional apportionment shall have been made as required by the last preceding section, the Collector shall cause a notice to be served on the zamindár of every estate on which the expenses have been apportioned—

(*a*) specifying the sum which has been apportioned on his estate, and, as far as can be calculated, the sum which he will be required to pay on account of the service of notices on him under this section and section 29;

(*b*) informing him that the said statement is open to inspection in the office of the Collector;

(*c*) calling on him to appear in person, or by agent properly authorized, at the office of the Collector on a date to be specified in the notice (not being less than two months after the issue of the notice), on which date the Collector will proceed to consider any objections which may be made to the provisional apportionment of expenses;

(*d*) warning him that if he does not appear on the date fixed in pursuance of the notice he will be deemed to have waived all objections to the share of the expenses apportioned to his estate;

and (unless as otherwise hereinafter provided in sections 31, 32 and 33);

(*e*) informing him that, under this Act, he is entitled to recover a portion of the amount which shall be finally made payable in respect of his estate under section 26, from such tenure-holders on his estate as are made liable to bear a portion of such expenses by sections 16 and 17 (of which sections a copy shall be annexed to the notice); and that in order to enable the Collector to apportion the said amount among the said tenure-holders, he may give in a list of all such tenures as defined in this Act, held directly from him, with a specification of the number of boundary-marks of each description which are erected within or on the boundary of each tenure;

(*f*) and warning him that, if he fails to give in a list of tenures as aforesaid on or before the said date, he will be deemed to have given up all claim to recover from the tenure-holders any part of the amount for which he may be held liable under section 26.

Collector to make final apportionment.

26. On the date fixed in such notice the Collector shall proceed to consider all objections which may be made to the provisional apportionment, and to make such final apportionment of the expenses as shall seem to him fit.

In making such final apportionment the costs of serving all notices under section 25 shall be distributed rateably among the estates concerned, in proportion to the share of the expenses of erecting boundary-marks which may be apportioned to each estate; and the amount so finally apportioned as payable in respect of each estate, together with the costs of serving notices, rateably distributed as aforesaid, shall be due to the Collector from the zamindárs of such estates.

Collector may postpone final apportionment.

27. Notwithstanding anything contained in the last preceding section, the Collector may postpone the final apportionment if it shall appear to him that a notice under section 25 has not been served on the zamindár of any

estate which should be made liable for a portion of the expenses, or for any other sufficient reason.

Zamindár failing to appear deemed to have waived objections.

28. Any zamindár failing to appear on the date fixed in the notice served on him under section 25 will be deemed to have waived all objections to the payment of the amount apportioned to his estate, and will not be entitled to prefer any objections thereto on any subsequent date; and any zamindár failing to give in a list of tenures (when called upon under section 25 to give in such list), on or before such date, will be deemed to have given up all claim to recover from the tenure-holders any part of the amount which may have been apportioned as payable in respect of his estate under section 26.

Collector to issue notice specifying amount finally apportioned.

29. So soon as the expenses shall have been finally apportioned under section 26 among the estates concerned as hereinbefore provided, the Collector shall issue a notice in respect of every estate, specifying the amount finally apportioned as payable in respect of the estate, and requiring the zamindár to pay such amount to the Collector, together with the costs of serving such notice, within one month of the issue of the notice. If such amount be not paid to the Collector within such period, the same, with interest, at such rate, not exceeding six per centum per annum, as the Lieutenant-Governor may from time to time determine, may be levied as provided in section 57.

Notice shall assign boundary-marks which zamindárs are bound to preserve.

The notice issued under this section shall assign to the zamindár, or to the zamindár jointly with tenure-holders, the boundary-marks[a] which they are legally bound to preserve under the provisions of section 19, and in respect of which they will be held liable to pay the costs of re-erection, maintenance and repair, under the provisions of section 20.

Collector to apportion between zamindár and tenure-holders.

30. If the zamindár of any estate shall give in a list of tenures, as referred to in section 25, with an application to the Collector to apportion between his estate and the tenures the amount which has been apportioned as payable in respect of his estate as aforesaid, the Collector shall proceed to make a provisional apportionment of the said amount between the zamindár and the tenure-holders, to serve notices on the said tenure-holders in the manner provided in section 25, and to make a final apportionment among the said zamindár and tenure-holders in the manner provided in sections 26 and 27; and the provisions of section 28 shall be applicable to such tenure-holders:

No separate notice in respect of apportionment

Provided that no separate notice shall be served under this section in respect of the provisional or final apportionment of the sum payable in respect of any tenure, if such sum be less than two rupees; but in respect of all such

[a] As to the assignment of boundary-marks erected under the Estates' Partition Act, 1876, see Ben. Act VIII of 1876, s. 126, *infra*.

of sum less than two rupees.

sums it shall be sufficient to publish a list showing the sums apportioned as payable.

Such list shall be published by being posted at the office of the subdivisional officer and at a conspicuous place in some village within which lands appertaining to the tenure are situate.

Summary apportionment between zamindár and tenure-holders.

31. Notwithstanding anything in this Part contained, whenever the Collector may consider that he has sufficient information (whether derived from papers compiled for the purposes of the road-cess, from enquiries made in the course of proceedings under this Act, or otherwise) to enable him in a summary way to make an apportionment of any expenses recoverable under this Act in respect of any estate, between the zamindárs of, and the holders of, tenures in such estate, the Collector may, as soon as possible after he shall have made a provisional apportionment under section 24 of the sum payable in respect of such estate, and without calling on the zamindár to give in any list of tenures as provided in clause (*e*) of section 25, proceed to make a provisional apportionment between the zamindárs and the tenure-holders of such estates of the sum which has been provisionally apportioned under section 24 as payable in respect of the estate.

Notice to zamindár when provisional apportionment made summarily.

32. Whenever any provisional apportionment of the sum payable between the zamindárs and the tenure-holders may have been made summarily, as provided in the last preceding section,

the notice to be served on the zamindár under section 25 shall inform the zamindár, in addition to the particulars specified in clauses (*a*), (*b*), (*c*) and (*d*) of the said section, and instead of those specified in clauses (*e*) and (*f*),

that under this Act he is entitled to recover a portion of the amount which shall be finally apportioned as payable in respect of his estate under section 26 from the tenure-holders on his estate; and

that the Collector has made a provisional apportionment of the said sum between the zamindár and tenure-holders according to a list which shall be annexed to the said notice;

and shall warn him—

that if he fails to prefer any objection to such provisional apportionment on or before the date specified he will be deemed to have given up all right to prefer any such objection at any future time; and

that the Collector will proceed to make such apportionment final, or to make any modifications in it which he may think fit:

Provided that the sum finally made payable by the zamindár shall not exceed the sum apportioned upon him in the said provisional apportionment between the zamindárs and the tenure-holders.

Procedure on Provisional apportionment.

33. As soon as a provisional apportionment between the zamindár and the tenure-holders shall have been made summarily as provided in section 31, the Collector shall proceed to serve notices on the tenure-holders concerned in the manner provided in section 30, and to do all other things as if the said provisional apportionment upon tenure-holders had been made on a list given in by the zamindár under section 30.

Mode of apportionment among tenures.

34. In apportioning the amount among the zamindár and the tenure-holders the Collector shall first deduct such sum as he shall consider to be fairly payable by the zamindár in respect of lands not included in any tenure, and in respect of his interest in lands which are included in tenures; and in apportioning the remainder among the tenures he shall take into consideration the number of pillars erected within or on the boundary of each tenure, the extent of each tenure, and the distance at which it is situated from the boundary-marks; but no tenure shall be made liable for any portion of the sum so apportioned, unless some part of it be situated within fifteen hundred feet from some boundary-mark.

Notice of apportionment in respect of tenures.

35. So soon as the final apportionment among tenure-holders under section 30 shall be completed, the Collector shall cause to be issued notices to each of the said tenure-holders, stating the amount payable in respect of each of their tenures, with interest (if any) calculated at the annual rate of six per centum from the date on which the zamindár paid to the Collector the sum which was apportioned on his estate under section 26, and the cost of serving upon the tenure-holder the notice under this section and calling upon him to pay the total amount so due to the zamindár of the estate of which the tenure is a part, within one month of the date of the notice:

No separate notice to tenure-holder required to pay less than two rupees.

Provided that no separate notice shall be served under this section on any tenure-holder who is required to pay a sum of less than two rupees as his share of the expenses apportioned under this Act; but in respect of such sums it shall be sufficient to publish a list in the manner prescribed by section 30, and no costs incurred in respect of the publication of any such list shall be recoverable from any person mentioned therein as liable to pay less than two rupees.

Collector not to issue notices to tenure-holders until zamindárs have deposited costs.

36. Notwithstanding anything contained in section 35, the Collector shall not issue the notices therein mentioned to the tenure-holders until the zamindárs concerned shall have deposited with the Collector the full amount of the costs of serving all the notices, and of publishing the lists as required by that section.

Apportionment between tenure-holder and holder of

37. The provisions of sections 25, 26, 27, 28, 29, 30, 34 and 35 shall be applicable, as far as possible, to every case in which any tenure-holder who has been made liable for the payment of any share of expenses under this Act

subordinate tenure.

may apply to the Collector to apportion the amount for which he has been made liable between himself and the holders of subordinate tenures direct from himself;

and the provisions of sections 31, 32 and 33, regarding the procedure for making a provisional apportionment in a summary way between a zamindár and the tenure-holders on his estate, shall be applicable, as far as possible, to the provisional apportionment of expenses between the holder of a tenure and the holders of under-tenures within his tenure:

Provided always that no such apportionment shall be made in respect of raiyats who have a right of occupancy only, and whose rent is not fixed in perpetuity.

Recovery of sums payable to zamindár or tenure-holder.

38. Every zamindár or tenure-holder to whom any sum is payable under the preceding sections may recover the same with interest as aforesaid in the manner provided by any law for the time being in force for the recovery of arrears of rent in respect of the tenure for which the sum is due.

Recovery of sums expended by Government.

39. The provisions of this Part shall apply to all sums expended by the Government since the first day of November, 1874, in erecting boundary-marks.

PART V.

BOUNDARY-DISPUTES.

Procedure in case of disputes as to boundary.

40. If it shall come to the notice of the Collector in the course of a survey under this Act that a dispute exists as to any boundary which should be surveyed, the Collector, after holding such enquiry as he may deem necessary, may determine such boundary as hereinafter provided.

Mode of determining boundary.

41. The Collector shall determine the boundary according to actual possession, and cause it to be secured by boundary-marks;

Force of Collector's order.

and the order of the Collector under this section shall, until it be reversed or modified by competent authority, have the force of an order of any Civil Court declaring the parties to be in possession of the land in accordance with the boundary as determined by the Collector.

Power of Collector to take possession of land in dispute.

42. If, after holding the necessary enquiry, the Collector is unable to discover which party was in possession of the disputed land when he instituted the enquiry under this section, the Collector may take possession of the land in dispute, and retain possession thereof until some party shall have established his right to the said land.

Power to

43. Whenever the Collector thinks it necessary to decide a dispute as to

any boundary under the last preceding section, he may, with the consent of the parties concerned, refer the same to arbitration.

refer to arbitration.

XIV of 1882. The procedure laid down in Chapter XXXVII of the Code of Civil Procedure[a] shall, so far as may be practicable, be applicable to disputes so referred to arbitration.

Relaying boundary previously determined by Court or by revenue-survey.

44. If the boundary regarding which the dispute exists as mentioned in section 40 shall at any previous time have been determined by any Court of competent jurisdiction, or shall have been laid down and shown on a map in the course of any previous revenue-survey or settlement, and no objection to the boundary as then laid down and mapped shall have been preferred before any authority competent to decide on such objection;

whenever the dispute relates to the boundary of an estate which is liable for revenue, or to any other boundary by which the interests of the Government may be affected, the Collector shall,

and whenever the dispute relates to any other boundary, the Collector may, if he thinks fit,

relay, as nearly as may be possible, the boundary as previously determined or laid down and shown on the map, and cause such boundary to be shown on the survey-map, with an explanatory note to the same:

Provided that the relaying and record of a boundary by the Collector under this section shall not affect the possession of any land by any party, and shall be in addition to the determination and record of the boundary according to actual possession required by section 41.

Collector may deviate from boundary if parties agree.

Nothing contained in this section shall be held to prohibit the Collector from deviating from a boundary as held by actual possession or as shown on a former map, and laying down a new boundary, if all the parties concerned agree to such new boundary, on the ground that the boundary held by actual possession, or as shown on the former map, was incorrect, and if it appears to the Collector that there is no objection to the adoption of such new boundary.

The reason for every such deviation shall be recorded in the Collector's proceedings.

Power of Collector in case of doubt or dispute as to boundary determined by Court or laid down by survey.

45. If it shall come to the notice of the Collector at any time, or in any manner, that a doubt or dispute exists in respect to any boundary—

(*a*) which has at any time been determined by a competent Court; or

(*b*) which has been laid down and shown on a map, in the course of a previous revenue-survey or settlement, or other proceeding of a revenue-officer for any special purpose, and against which no objection has been

[a] See Act XIV of 1882, s. 3, in General Acts, 1882—84, p. 32.

preferred to any authority competent to decide upon such objection ; or

(*c*) which has been laid down by survey under this Act,

the Collector may, if he thinks it desirable for any reason that the boundary so determined or laid down shall be relaid, proceed to relay the boundary in the manner prescribed in section 44 of this Act,

and for the purpose of so relaying the boundary he may make any enquiries and surveys which may be necessary, and such enquiries and surveys shall be deemed to be proceedings under section 6, and the Collector shall exercise in respect thereof all powers which he may exercise in respect of enquiries and surveys under that section.

In certain cases Collector may cause marks to be erected.

46. Whenever the Collector shall have determined a boundary which was in dispute, and the order shall have become final,

and whenever a boundary which has been supplied by the survey-officers, or has been determined under this Act, has been altered by a decree of any Civil Court which has become final,

and whenever it shall come to the notice of the Collector that any boundary has been determined by a competent Court or authority,

the Collector may cause such marks as he may think fit to be erected in order to secure the boundary permanently, and the provisions of Parts III and IV shall, so far as is possible, be applicable to boundary-marks which are erected under this section, and to the apportionment of the cost thereof.

PART VI.

MISCELLANEOUS.

Joint zamindars subject to every liability imposed on single zamindárs.

47. Whenever any estate or tenure is held jointly by two or more zamindárs or tenure-holders, all such zamindárs and tenure-holders shall be jointly and severally liable in respect of every liability imposed on zamindárs or tenure-holders respectively by this Act ;

and any shareholder in any estate or tenure who may have paid the amount finally apportioned to such estate or tenure may recover from his co-sharers such sums as may be payable in respect of their shares as arrears of rent, or may take credit for such sums in any adjustment of accounts between himself and his co-sharers.

Service of notice.

48. Every notice in and by this Act required to be served on any person may be served—

(1) by delivering the same to the person to whom it is directed, or, on

failure of such service, by posting the same on some conspicuous part of the house in which the said person resides, or by delivering the said notice to a general agent of the person to whom such notice is directed ; or

(2) by sending a registered letter containing such notice directed to the said person at his usual place of abode, or to the place where he may be known to reside ; or

(3) by posting a copy of the notice at any mál-kachahri of the estate or tenure of the person to whom the notice is directed ; or, if no such mál-kachahri be found, on some conspicuous place on the said estate or tenure to which such notice relates, and by delivering, in the case of estates paying their annual revenue by four instalments, another copy thereof to any agent who shall have paid an instalment of revenue next after the preparation of such notice.

In all cases where two or more persons are holders of an estate or tenure, service of notice under this clause shall be deemed to be good and sufficient service on each and all of such persons.

No proceedings under Act affected by mistake or misdescription.

49. No proceedings under this Act shall be affected by reason of any mistake in the name of any person thereby rendered liable to pay any sum of money, or in the description of any estate or tenure or land in respect of which he is rendered liable to pay, or by reason of any other informality, provided the directions of this Act be in substance and effect complied with; and no proceedings under this Act shall be affected by reason of the omission to serve any notice on any zamindár whose name is not recorded on the Collector's registers as owner of the estate in respect of which the notice is required to be served.

Power of Collector to enforce attendance of witnesses.

50. For the purpose of any enquiry under this Act the Collector shall, in addition to every power conferred specially by this Act, have power to summon and enforce the attendance of witnesses and compel the production of documents by the same means (as far as may be), and in the same manner, as is provided in the case of a Court under the Code of Civil Procedure.[a]

V of 1882.

Daily fine for failure to comply with requisition in notice.

51. If any person shall fail to comply with a requisition contained in any special notice served under section 7 of this Act, or in any notice served for the purpose of any enquiry under Part V of this Act, within the time specified in such notice, the Collector may impose upon him such daily fine as he may think fit, not exceeding fifty rupees, and such fine shall be payable daily until the requisition is complied with; and the Collector may proceed from time to time to levy any amount which has become due in respect of any such fine,

[a] See Act XIV of 1882, s. 3 and Chap. XIV, in General Acts, 1882—84, pp. 32, 73.

notwithstanding that an appeal against the order imposing such fine may be pending :

Provided that whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the division, and no further levy in respect of such fine shall be made otherwise than by authority of the said Commissioner.

Penalty for not giving notice of injury to boundary-mark.

52.[a] Any person, being bound by the provisions of section 19 to give notice to the Collector in respect of any boundary-mark having been injured, destroyed or removed, or requiring repairs, who shall fail to give such notice, shall be liable to a fine not exceeding one hundred rupees, to be imposed by order of the Collector.

Penalty for removing boundary-marks.

53.[a] Any person convicted before a Collector of wilfully erasing, removing or damaging any boundary-mark (not being a land-mark fixed by the authority of a public servant within the meaning of section 434 of the Indian Penal Code)[b] which has been lawfully erected, may be ordered by the convicting officer to pay such sum, not exceeding two hundred rupees, for each mark so erased, removed or damaged, as the said officer may think fit, in addition to such sum as may be necessary to defray the expense of restoring the boundary-mark so erased, removed or damaged. XLV of 1860.

Collector may award portion of fine to informer.

54.[a] The Collector may award any portion of a fine imposed under either of the two last preceding sections, and which may be realised, to any person who may have given information leading to the imposition of the fine.

Levy of fine.

55.[a] A fine under sections 51, 52 and 53 may be levied, as far as may be practicable, in the manner provided in sections 386, 387 and 389 of the Code of Criminal Procedure, 1882;[c] but if no moveable property belonging to the person from whom the fine is due is found in the district within which the order was passed, then such fine may be levied as if it were an arrear of revenue. X of 1882.

When person removing boundary-mark cannot be found, Collector may repair.

56.[a] Whenever the person erasing, removing or damaging any boundary-mark cannot be discovered, or if for any other reason it is found impracticable to recover from him the sum which he has been so ordered to pay, the boundary-mark shall be restored or repaired by the Collector, and the expenses thereby incurred shall be recovered from the occupants of such of the conterminous lands, and in such proportions, as to the Collector may seem fit.

Every amount due deemed a demand under Ben. Act VII of 1880.

57.[a] Every amount which may become due to the Collector under the provisions of this Act in respect of any expenses incurred, or of any notices served, or of any costs payable by any party in an appeal, shall be deemed to

[a] As to the application of ss. 52—57 to boundary-marks erected under the Estates' Partition Act, 1876, see Ben. Act VIII of 1876, s. 126, *infra*.

[b] See General Acts, 1834—66, 2nd Ed., p 341.

[c] See Act X of 1882, s. 3, in General Acts, 1882 (Pt I), p. 242.

be a demand [a]under section 2 of Bengal Act VII of 1868 (*an Act to make further provision for the recovery of arrears of Land-revenue and Public Demands recoverable as arrears of Land-revenue*) and shall be leviable as such.[a]

Appeal against orders.

58. Except as provided in sections 59 and 60, no appeal shall lie, as of right, against any order passed under this Act by any officer; but

Supervision of proceedings.

the proceedings and orders of Assistant Superintendents and of Deputy Collectors under this Act shall be subject to the supervision and control of the Superintendent of Survey or Collector;

the proceedings and orders of the Superintendent of Survey and of the Collector, to the supervision and control of the Commissioner of the division; and

the proceedings and orders of all officers, to the supervision and control of the Board of Revenue:

Government may restrict functions of Commissioner.

Provided that the Government may order that, in the course of any survey under this Act, the functions of the Commissioner shall be restricted to the decision of appeals under section 60, and that the general powers of control and supervision over the Superintendent of Survey or Collector and their subordinate officers may be exercised by the Board of Revenue direct.

Appeal against certain orders of Assistant Superintendent or Deputy Collector.

59. An appeal, if presented within one month of the date of the order appealed against, shall lie to the Collector or Superintendent of Survey against every order of a Deputy Collector or of an Assistant Superintendent—

(*a*) determining under section 8 the amount to be paid as the price of materials or labour supplied;

(*b*) determining under section 10 the amount to be paid as compensation;

(*c*) deciding a boundary-dispute;

(*d*) imposing a fine under this Act.

Appeal against certain orders of Collector or Superintendent of Survey.

60. An appeal, if presented within one month of the date of the order appealed against, shall lie to the Commissioner of the division against every order of the Collector or Superintendent of Survey—

(*a*) determining under section 8 the amount to be paid as value of materials or labour supplied;

(*b*) determining under section 10 the amount to be paid as compensation;

(*c*) determining a disputed boundary;

(*d*) imposing a fine of more than fifty rupees on any person:

Provided that the order appealed against under clauses (*a*), (*b*) and (*c*) shall not have been passed by the Collector or Superintendent of Survey on an appeal preferred against the order of a subordinate officer.

[a-a] This part of s. 57 has been repealed in Bengal and the Districts of Sylhet and Goálpára (excluding the Eastern Dwárs) by Ben. Act VII of 1880, s. 3. As to recovery of demands under s. 57, see ss. 7 (3) and 8 of that Act, *infra*.

Orders as to costs on appeal.

61. The Commissioner, Collector or Superintendent of Survey may pass such orders as they shall think fit in respect of the payment of costs incurred by any party in an appeal.

No suit to be brought unless appeal first preferred.

62. No suit shall be brought to set aside an order of a Superintendent of Survey, Collector, Assistant Superintendent or Deputy Collector deciding a boundary-dispute, unless an appeal shall have been first preferred under section 59 or section 60, or unless the person suing was at the time when such order was passed a minor, or insane or an idiot.

Board of Revenue may lay down rules with sanction of Lieutenant-Governor.

63. With the sanction of the Lieutenant-Governor, the Board of Revenue may lay down rules, not being inconsistent with this Act,—

to provide for the preparation of maps and registers, and for the collection and record of any information in respect of any land to be surveyed under this Act;

and generally to provide for the proper performance of all things to be done, and for the regulation of all proceedings to be taken, under this Act.

All enquiries ordered to be made for the collection of information under such rules shall be deemed to be enquiries under section 6, and the Collector shall exercise in respect thereof all powers which he may exercise in respect of enquiries under that section.

ACT No. I OF 1876.[a]

Received the Lieutenant-Governor's assent on the 23rd November, 1875, and the Governor General's assent on the 11th January, 1876.

An Act to provide for the Voluntary Registration of Muhammadan Marriages and Divorces.

Preamble.

Whereas it is expedient to provide for the voluntary registration of marriages and divorces among Muhammadans; It is enacted as follows:—

Local extent.

1. This Act shall commence and take effect in those districts[b] in the provinces subject to the Lieutenant-Governor of Bengal to which the said Lieutenant-Governor shall extend it by an order published in the Calcutta Gazette; and thereupon this Act shall commence and take effect in the dis-

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[a] This Act has been declared in force, under s. 3 of the Scheduled Districts Act, 1874, in the Districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see Vol. I, p. 678.

It has been extended, under s. 5 of the same Act, to the Districts of Sylhet and Cachar—see Appendix to Assam Supplement.

[b] For list of districts to which this Act has been extended under s. 1, see Appendix.

tricts named in such order, on the day which shall be in such order provided for the commencement thereof.

2. In this Act, unless there be something repugnant in the subject or context,— Interpretation.

"Muhammadan registrar" means any person who is duly authorized under this Act to register marriages and divorces: "Muhammadan registrar."

"Inspector-General of Registration" and "Registrar" respectively mean the officers so designated and appointed under the Indian Registration Act, 1877,[a] or other law for the time being in force for the registration of documents: "Inspector-General of Registration." "Registrar."

III of 1877.

"district" means a district formed under the provisions of the Indian Registration Act, 1877:[a] "District."

"parda-nishin" means a woman who, according to the custom of the country, might reasonably object to appear in a public office. "Parda-nishin."

3. It shall be lawful for the Lieutenant-Governor to grant a license to any person, being a Muhammadan, authorizing him to register Muhammadan marriages and divorces which have been effected within certain specified limits, on application being made to him for such registration; and in like manner it shall be lawful for the said Lieutenant-Governor to revoke or suspend such license: Lieutenant-Governor may grant licenses to register.

Provided that no more than two persons shall be licensed to exercise the said functions within the same limits: and provided further that, when two persons are so licensed to act within the same limits, the one shall be a member of the Sunni, and the other of the Shiá, sect.

4. Every Muhammadan registrar shall use a seal bearing the following inscription in the Persian character and language: "The seal of the Muhammadan registrar of ." Muhammadan registrars to use seals.

5. The Lieutenant-Governor shall supply for the office of every Muhammadan registrar the seal and the books necessary for the purposes of this Act. Government to provide seal and books.

The pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title-page by the officer by whom such books are issued.

6. Every Muhammadan registrar shall keep up the following register-books:— Muhammadan registrar to keep registers.

Book I—register of marriages, in the form A contained in the schedule to this Act;

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[a] See Act III of 1877, s. 2, in General Acts, 1877—81, p. 46.

Book II—register of divorces other than those of the kind known as *Khula*, in the form B contained in the schedule to this Act;

Book III—register of divorces of the kind known as *Khula*, in the form C contained in the schedule to this Act.

Entries to be numbered.

7. All entries in each register prescribed by the last preceding section shall be numbered in a consecutive series, which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.

Applications by whom to be made.

8. Every application for registration under this Act shall be made to the Muhammadan registrar orally as follows:—

If the application be for the registration of a marriage—

by the parties to the marriage jointly: provided that if the man, or the woman, or both, be minors, application shall be made on their behalf by their respective lawful guardians: and provided further that, if the woman be a parda-nishin, such application may be made on her behalf by her duly authorized vakil.

If the application be for registration of a divorce other than of the kind known as Khula—

by the man who has effected the divorce.

If the application be for the registration of a divorce of the kind known as Khula—

by the parties to the divorce jointly: provided that, if the woman be a parda-nishin, such application may be made on her behalf by her duly authorized vakil.

Duties of Muhammadan registrar on application.

9. On application being made to a Muhammadan registrar for registration under this Act of a marriage or divorce within one month of the marriage or divorce being effected, and not otherwise, and on payment to him of a fee of one rupee, the Muhammadan registrar shall—

(*a*) satisfy himself whether or not such marriage or divorce was effected by the person or persons by whom it is represented to have been effected;

(*b*) satisfy himself as to the identity of the persons appearing before him and alleging that the marriage or divorce has been effected;

(*c*) in the case of any person appearing as representative of the man or woman (whether he appear as guardian or vakil), satisfy himself of the right of such person to appear.

If the Muhammadan registrar be satisfied on the above points and not otherwise, he shall make an entry of the marriage or divorce in the proper register:

Provided that no such entry shall be made otherwise than in the presence

of every person who, by section 11 of this Act, is required to sign such entry.

10. Nothing in the preceding section shall be held to prohibit a Muhammadan registrar from receiving a gratuity in excess of the prescribed fee of one rupee, when such gratuity is voluntarily tendered.

Muhammadan registrar may receive gratuity.

11. Every entry in a register kept under this Act shall be signed as follows:—

Entries by whom to be signed.

If the entry be of a marriage in a register in the form A contained in the schedule to this Act,—

(1) by the parties to the marriage, or, if either or both of them be minors, by their lawful guardians respectively: provided that, if the woman be a parda-nishin, the entry may be signed on her behalf by her duly authorized vakil;

(2) by two witnesses who were present at the marriage-ceremony;

(3) in cases in which the woman is represented by a vakil—by two witnesses to the fact of the vakil having been duly authorized to represent her;

(4) by the Muhamadan registrar.

If the entry be of a divorce other than the kind known as Khula in a register in the form B contained in the schedule to this Act—

(1) by the man who has effected the divorce;

(2) by the witness who identifies the man who has effected the divorce;

(3) if the man be of the Shiá sect—by two witnesses to the divorce being effected;

(4) by the Muhammadan registrar.

If the entry be of a divorce of the kind known as Khula in a register in the form C contained in the schedule to this Act—

(1) by the parties to the *Khula*: provided that, if the woman be a parda-nishin, the entry may be signed on her behalf by her duly authorized vakil;

(2) by the person who identifies the man;

(3) by the person who identifies the woman;

(4) if the application for registration has been made by a vakil on behalf of the woman—by two witnesses to the fact of the vakil having been duly authorized to represent her;

(5) if the man be of the Shiá sect—by two witnesses to the divorce being effected;

(6) by the Muhammadan registrar.

Copies of entry to be given to parties.

12. On completion of the registration of any marriage or divorce, the Muhammadan registrar shall deliver to each of the applicants for registration an attested copy of the entry; and for such copy no charge shall be made.

Index to be kept.

13. In every office in which any register hereinbefore mentioned is kept, there shall be prepared a current index of the contents of such register; and every entry in such index shall be made, so far as practicable, immediately after the Muhammadan registrar has made an entry in any such register.

Particulars to be shown in index.

14. The index mentioned in the last preceding section shall contain the name, place of residence and father's name of each party to every marriage or divorce, and the date of registration.

It shall also contain such other particulars, and shall be prepared in such form, as the Lieutenant-Governor may direct.

Index may be inspected and copies of entries in registers taken.

15. Subject to the previous payment of the fees prescribed, the index, whether it be in the office of the Muhammadan registrar or of the registrar of the district, and the copies of entries in such index, which are filed in the office of the registrar of the district under the provisions of section 22 of this Act, shall be at all times open to inspection by any person applying to inspect the same; and copies of entries in any of the registers, and of the certified copies of such entries, which are filed in the office of the registrar of the district under section 22 of this Act, shall be given to all persons applying for such copies.

Such copies shall be signed and sealed by the registrar of the district or by the Muhammadan registrar, as the case may be.

Fees for searches and copies.

16. Every registrar of a district and every Muhammadan registrar shall, for the purposes of this Act, be entitled to levy the following fees:—

for every search or permission to search in any index or register under his charge—four annas:

for every certified copy of any entry in a register other than the first copy referred to in section 12 of this Act—one rupee.

Muhammadan registrars to be subject to control of district registrar.

17. Every Muhammadan registrar shall perform the duties of his office under the superintendence and control of the registrar in whose district the office of such Muhammadan registrar is situate.

In the town of Calcutta every Muhammadan registrar shall perform the duties of his office under the superintendence and control of the Inspector-General of Registration.

Every registrar, and in the town of Calcutta the Inspector-General of

Registration, shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Muhammadan registrar subordinate to him.

Inspector-General of Registration to exercise general superintendence.

18. The Inspector-General of Registration shall exercise a general superintendence over offices of all Muhammadan registrars, and shall have power from time to time to frame rules consistent with this Act for the guidance of the said Muhammadan registrars and the regulation of their offices generally.

Rules to be approved by Lieutenant-Governor and published in Gazette.

19. All rules framed in accordance with the last preceding section shall be submitted to the Lieutenant-Governor for approval, and after they have been approved they shall be published in the official Gazette, and shall then have the same force as if they were inserted in this Act.

Refusal to register to be recorded.

20. Every Muhammadan registrar refusing to register a marriage or divorce shall make an order of refusal, and record his reasons for such order in a book to be kept for that purpose.

Appeal against refusal to register.

21. An appeal shall lie against an order of a Muhammadan registrar refusing to register a marriage or divorce, to the registrar to whom such Muhammadan registrar is subordinate, if presented to such registrar within twenty days from the date of the order, and the registrar may reverse or alter such order; and the order passed by the registrar on appeal shall be final.

Copies of entries to be sent monthly to registrar of district.

22. Every Muhammadan registrar shall, at the expiration of every month, send certified copies of all entries made by him during the month in the registers mentioned in section 6 of this Act, and also of the entries which have been made in the index referred to in sections 13 and 14 of this Act, to the registrar of the district within which such Muhammadan registrar has been authorized to act, and the registrar, on receiving such copies, shall file them in his office.

Registers to be given up.

23. Every Muhammadan registrar shall keep safely each register until the same shall be filled, and shall then, or earlier if he shall leave the district or cease to hold a license, make over the same to the registrar of the district for safe custody, or to such other person as the registrar may direct.

Lieutenant-Governor may prescribe rules.

24. The Lieutenant-Governor may from time to time prescribe such rules as he thinks fit, provided that such rules be not inconsistent with any provision of this Act,—

(*a*) for determining the qualifications to be required from persons to whom licenses under section 3 of this Act may be granted;

(*b*) for regulating the attendance of Muhammadan registrars at the celebration of marriages, and their remuneration for such attendance;

(*c*) for regulating the grant of copies by registrars and Muhammadan registrars;

(*d*) for regulating the payment by the Muhammadan registrars of the cost of the seals, forms of registers, stationery and any other articles which may be supplied to them by the Government;

(*e*) for regulating the application of the fees levied by registrars of districts and Muhammadan registrars under this Act; and

(*f*) for regulating such other matters as appear to the Lieutenant-Governor necessary to effect the purposes of this Act.

The Lieutenant-Governor may from time to time cancel or alter any such rules.

Muhammadan registrar a public officer.

25. Every Muhammadan registrar shall be, and be deemed to be, a public officer, and his duties under this Act shall be deemed to be public duties.

Saving clause.

26. Nothing in this Act contained shall be construed to—

(*a*) render invalid, merely by reason of its not having been registered, any Muhammadan marriage or divorce which would otherwise be valid;

(*b*) render valid, by reason of its having been registered, any Muhammadan marriage or divorce which would otherwise be invalid;

(*c*) authorize the attendance of any Muhammadan registrar at the celebration of a marriage, except at the request of all the parties concerned;

(*d*) affect the religion or religious rites and usages of any of Her Majesty's subjects in India;

(*e*) prevent any person, who is unable to write, from putting his mark instead of the signature required by this Act.

SCHEDULE.

(*See sections 6 and 11.*)

Form A. Book I.

Register of Marriages (as prescribed by section 6 of the Act for the voluntary Registration of Muhammadan Marriages and Divorces).

1. Consecutive number.

2. Name of the bridegroom and that of his father, with their respective residences.

3. Name of the bride and that of her father, with their respective residences.

4. Whether the bride is a spinster, a widow or divorced by a former husband, and whether she is adult or otherwise.

5.* Name of the guardian of the bridegroom (if the bridegroom be a minor) and that of the guardian's father, with specification of the guardian's residence, and of the relationship in which he stands to the bridegroom.

6.* Name of the guardian of the bride (if she be a minor) and that of his father, with specification of his residence, and the relationship in which he stands to the bride.

7.† Name of the bride's vakil, and of his father, and their residences, with specification of the relationship in which the vakil stands to the bride.

8.† Names of the witnesses to the due authorization of the bride's vakil, with names of their fathers and residences, and specification of the relationship in which they stand to the bride.

9. Date on which the marriage was contracted,—to be given according to the English style and according to the era current in the district.

10. Amount of dower.

11. How much of the dower is mu'ajjal (prompt) and how much mu'wajjal (deferred).

12. Whether any portion of the dower was paid at the moment. If so, how much.

13. Whether any property was given in lieu of the whole or any portion of the dower, with specification of the same.

14. Special conditions, if any.

15. Names of village or town, police-jurisdiction and district in which the marriage took place.

16. Name of the person in whose house the marriage-ceremony took place, and that of his father.

17. Date of registration,—to be given according to the English style.

FORM B. BOOK II.

Register of Divorces other than those of the kind known as Khula (prescribed by section 6 of the Act for the voluntary Registration of Muhammadan Marriages and Divorces).

1. Consecutive number.

2. Names of the husband and of his father, and their residences.

3. Names of the wife and of her father, and their residences.

4. Date of divorce—according to the English style and according to the era current in the district.

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* These columns will be blank if the bride and bridegroom, respectively, are not represented by guardians.

† These columns will be blank when the bride is not represented by a vakil.

5. Description of divorce.

6. Manner in which the divorce was effected.

7. Names of the village or town, police-jurisdiction and district in which the divorce took place.

8. Name of the party in whose house the divorce took place, and of his father.

9. Names of witnesses to the divorce, if any, the names of their fathers, and their respective residences.

10. Name of party identifying the husband before the Muhammadan registrar and that of his father, and their residences.

11. Date of registration,—to be given according to the English style.

FORM C. BOOK III.

Register of Divorces of the kind known as Khula (prescribed by section 6 of the Act for the voluntary Registration of Muhammadan Marriages and Divorces).

1. Consecutive number.

2. Name of the husband and that of his father, and their residences.

3. Name of the wife and that of her father, and their residences.

4. Date of *Khula*—according to the English style and according to the era current in the district.

5. Amount of dower.

6. Whether *Khula* was acknowledged by the wife in person before the Muhammadan registrar.

7. If so, name of the party identifying her before the Muhammadan registrar, and that of his father, and their residences, with specification of the relationship which he bears to her, if any.

8.* If the *Khula* be acknowledged before the Muhammadan registrar by the wife's vakil, his name and that of his father, and their residences, with specification of the relationship which the vakil bears to the wife, if any.

9. Names of the two witnesses to the due authorization of the wife's vakil, and those of their fathers, with their residences.

10. Name of village or town, police-jurisdiction and district where the *Khula* took place.

11. Name of the person in whose house the *Khula* took place, and that of his father.

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* This column will be blank if the woman is not represented by a vakil.

12. Names of the witnesses, if any, to the divorce being effected, the names of their fathers and their residences.

13. Name of the person identifying the husband, and that of his father and their residences.

14. Date of registration,—to be given in the English style.

ACT No. II OF 1876.

Received the Lieutenant-Governor's assent on the 28th August, 1875, and the Governor General's assent on the 5th February, 1876.

An Act to amend Act XI of 1849, Act XXI of 1856 and Act IV (B. C.) of 1866.

[*Part I, ss. 1, 2.—Preliminary: Part II, ss. 3-9.—Amendment and Extension of Act XI of 1849: Part III, ss. 10, 11.—Amendment and Extension of Act XXI of 1856.*] *Rep. by Ben. Act VII of 1878.*

PART IV.

AMENDMENT OF ACT IV (B. C.) OF 1866.

12. Act IV (B. C.) of 1866 shall be read as if, for section 40 of the said Act, the following section were substituted:— Amendment of section 40 of Ben. Act IV of 1866.

[See *supra*, p. 68.]

[*Part V, ss. 13-15.—General: Schedule.—Enactments repealed.*] *Rep. by Ben. Act VII of 1878.*

ACT No. III OF 1876.[a]

Received the Lieutenant-Governor's assent on the 22nd December, 1875, and the Governor General's assent on the 24th March, 1876.

An Act to provide for irrigation in the Provinces subject to the Lieutenant-Governor of Bengal.

WHEREAS it is necessary to make provision for the construction, maintenance and regulation of canals, for the supply of water therefrom, and for the Preamble.

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[a] Ben. Act III o 1876 has been declared in force, under s. 3 of the Scheduled Districts Act, 1874, in the Districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see Vol. I, p. 678.

The Bengal Embankment Act, 1882, does not apply to any embankment, land or water-course which is under the operation of this Act—see Ben. Act II of 1882, s. 91, *infra*.

evy of rates for water so supplied, in the provinces subject to the Lieutenant-Governor of Bengal; It is hereby enacted :—

PART I.

PRELIMINARY.

Short title.

1. This Act may be called the Bengal Irrigation Act, 1876;

Local extent.

It shall take effect in those districts* in the provinces subject to the Lieutenant-Governor of Bengal to which the said Lieutenant-Governor shall extend it by an order published in the Calcutta Gazette; and shall commence on the day which shall be in such order provided for the commencement thereof.

Commencement.

Repeal of Acts.

2. The enactments specified in Schedule A hereto annexed are repealed to the extent mentioned in the third column of the said schedule.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

"Canal."

(1) "canal" includes—

(*a*) all canals, channels and reservoirs hitherto constructed, maintained or controlled by Government for the supply or storage of water, or which may hereafter be so constructed, maintained or controlled;

(*b*) all works, embankments, structures, supply and escape-channels connected with such canals, channels or reservoirs;

(*c*) all village-channels as defined in clause (2) of this section;

(*d*) all drainage-works as defined in clause (3) of this section;

(*e*) any part of a river, stream, lake, natural collection of water or natural drainage-channel to which the Lieutenant-Governor has applied the provisions of Part II of this Act, or of which the water has been applied or used before the passing of this Act for the purpose of any existing canal;

(*f*) all lands on the banks of any canal as defined in articles (*a*), (*b*), (*c*), (*d*) and (*e*) of this clause, which have been acquired by Government:

"Village-channel."

(2) "village-channel" means any channel by which water is led from a canal directly into the fields to be irrigated, and includes all subsidiary works connected with any such channel, except the sluice or outlet through which water is supplied from a canal to such channel:

"Drainage-work."

(3) "drainage-work" means any work in connection with a system of irrigation which has been or may hereafter be made or improved by the Government for the purposes of the drainage of the country, whether under the

* For list of districts to which this Act has been extended, see Appendix.

provisions of Part IV of this Act or otherwise, and includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works connected therewith, but does not include works for the removal of sewage from towns:

(4) "flood-embankment" means any embankment constructed or maintained by the officers of Government in connection with any system of irrigation-works for the protection of lands from inundation, or which may be declared by the Lieutenant-Governor to be maintained in connection with any such system; and includes all groins, spurs, dams and other protective works connected with such embankments: "Flood-embankment."

(5) "Collector" means the head revenue-officer of a district, and includes any officer appointed by the Lieutenant-Governor to exercise all or any of the powers of a Collector under this Act: "Collector."

(6) "Court" means, in the Regulation Provinces, a principal Civil Court of original jurisdiction; "Court."

and, in the Non-Regulation Provinces, the Court of a Commissioner of a Division,

unless when the Lieutenant-Governor has appointed (as he is hereby empowered to do), either specially for any case, or generally within any specified local limits, a judicial officer to perform the functions of a Judge under this Act, and then the expression "Court" means the Court of such officer:

(7) "canal-officer" means an officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof; and includes every officer to whom any of the functions of a canal-officer under this Act have been assigned by the Lieutenant-Governor: "Canal-officer."

(8) "section" means a section of this Act: "Section."

(9) "owner" includes every person having a joint interest in the ownership of the thing specified; and all rights and obligations which attach to an owner under the provisions of this Act shall attach jointly and severally to every person having such joint interest in the ownership. "Owner."

VI of 4. Nothing contained in the Bengal Embankment Act, 1873,[a] shall apply to any canal or flood-embankment as defined in this Act. Exemption from Bengal Embankment Act.

5. The Lieutenant-Governor may from time to time declare, by notification in the Calcutta Gazette, the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed. Power to appoint officers.

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[a] See *supra*, p. 191.

PART II.

Of the Application of Water for Public Purposes.

Notification when water-supply to be applied for public purposes.

6. Whenever it appears expedient to the Lieutenant-Governor that the water of any river or stream flowing in a natural channel, or of any lake or other natural collection of still water, should be applied or used by the Government for the purpose of any existing or projected canal,

the Lieutenant-Governor may, by notification in the Calcutta Gazette, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

Powers of canal-officer.

7. At any time after the day so named, any canal-officer acting under the orders of the Lieutenant-Governor in this behalf may enter on any land and remove any obstructions, and may close any channels, and do any other thing necessary for such application or use of the said water.

Notice as to claims for compensation.

8. As soon as is practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places stating that the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section 11 may be made before him.

A copy of sections 11, 12 and 13 shall be annexed to every such notice.

Contents of notice.

9. When any claim for compensation is made before the Collector in accordance with the last preceding section, the Collector shall issue a notice requiring all persons interested in the matter in respect of which compensation is claimed to appear personally or by agent before him at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the property affected, and the amount and particulars of their claims to compensation for such interests.

Notice to occupiers.

The Collector shall also serve notice to the same effect on the occupier (if any) of the land entered on, and on such persons known or believed to be interested in the matter in respect of which compensation is claimed, or to be entitled to act for persons so interested, as reside within his district.

Power to require statements as to name and interests.

10. The Collector may also require any person on whom a notice may be served under the last preceding section, and who makes a claim for compensation in accordance therewith, to deliver to him a statement containing, so far as may be practicable, the name of every other person possessing any interest in the property affected or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the

rents and profits (if any) received or receivable on account thereof for the year next preceding the date of the statement.

If any person shall fail to comply within the time fixed by the notice with a requisition made under this section, the Collector may impose upon him such daily fine as he may think fit not exceeding fifty rupees; and such fine shall be payable daily until the requisition is complied with, and the Collector may proceed from time to time to levy the amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending: **Penalty for failure to comply.**

Provided that, whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner, and no further levy in respect of such fine shall be made otherwise than by authority of the Commissioner.

Every person required to make or deliver a statement under this section shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.[a] **Persons required to make statements legally bound to do so.**

XLV of 1860.

11. No compensation shall be awarded for any damage caused by— **Damage for which compensation shall not be awarded.**

(*a*) stoppage or diminution of percolation or floods;

(*b*) deterioration of climate or soil;

(*c*) stoppage of navigation, or of the means of rafting timber or watering cattle.

But compensation may be awarded in respect of any of the following matters:— **Matters in respect of which compensation may be awarded.**

(*d*) stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or under ground, in use at the date of the issue of the notification under section 6:

(*e*) stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, whether natural or artificial, in use at the date of the said notification:

(*f*) stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification:

(*g*) damage done in respect of any right to a water-course or the use of any water to which any person is entitled under the Indian Limitation Act, 1877,[b] Part IV:

XV of 1877.

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[a] See General Acts, 1834—66, 2nd Ed., p. 280.
[b] See Act XV of 1877, s 2, in General Acts, 1877—81, p. 92.

(*h*) any other substantial damage, not falling under any of the above clauses (*a*), (*b*) or (*c*), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

Compensation for loss of tolls lawfully levied.

Notwithstanding anything contained in clause (*c*), compensation may be awarded in respect of the loss of any tolls which were lawfully levied on any river or channel at the time of the issue of the notification mentioned in section 6.

Diminution in market-value to be considered.

In determining the amount of compensation under this section, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed; and, where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual nett profits of such property, caused by the exercise of the powers conferred by this Act.

No right to any such supply of water as is referred to in clauses (*d*), (*e*) or (*f*) of this section, in respect of a work or channel not in use at the date of the notification, shall be acquired as against the Government, except by grant or under the Indian Limitation Act, 1877,[a] Part IV. XV of 1877.

Compensation for loss of drinking-water.

12. If any supply of drinking-water is substantially deteriorated or diminished by any works undertaken in accordance with a declaration made by the Lieutenant-Governor under section 6, the canal-officer shall be bound to provide within convenient distance an adequate supply of good drinking-water in lieu of that so deteriorated or diminished, and no person shall be entitled to claim any further compensation in respect of the said deterioration or diminution.

Limitation of claims.

13. No claim for compensation for any such stoppage, diminution or damage shall be entertained after the expiration of six months from such stoppage, diminution or damage, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Enquiry into claim and tender of compensation.

14. On the day fixed in the notice mentioned in section 9, the Collector shall proceed to enquire summarily into the claim and to determine the amount of compensation which in his opinion should be allowed therefor, and shall tender such amount to the persons interested who have attended in pursuance of the notice given under section 9.

Power to summon witnesses.

For the purpose of such enquiry the Collector shall have power to summon and enforce the attendance of witnesses and to compel the production of docu-

[a] See Act XV of 1877, s. 2, in General Acts, 1877—81, p. 92.

ments by the same means, and, as far as may be, in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure.[a]

XIV of 1882.

Postponement of enquiry.

15. The Collector may, if no claimant attends pursuant to the notice, or if for any other cause he thinks fit, from time to time postpone the enquiry to a day to be fixed by him.

Award in case of compensation being agreed on.

16. If the Collector and the persons interested agree as to the amount of compensation to be allowed, the Collector shall make an award under his hand for the same.

Award to be filed and to be evidence.

Such award shall be filed in the Collector's office, and shall be conclusive, as between the Collector and the persons interested, of the value of the said property and the amount of compensation allowed for the same.

Collector to refer matter to Court when compensation not accepted.

17. If the Collector and the persons interested do not agree as to the amount of compensation to be allowed, or if upon the said enquiry any question respecting the title to the property of which the value has been diminished, or any right thereto, or interest therein, arises between or among two or more persons making conflicting claims in respect thereof, the Collector shall refer the matter to the determination of the Court in manner hereinafter provided.

Collector to record particulars in certain cases.

18. If, when the Collector proceeds to make the enquiry as mentioned in sections 14 and 15, no claimant attends, or if any person whom the Collector has reason to think interested does not attend, the Collector shall hold a proceeding and record the following particulars :—

(*a*) the nature and extent of the property of which the value has been diminished and in respect of which compensation is claimed, and the character and extent of the damage done;

(*b*) the names of the persons whom he has reason to think interested in such property;

(*c*) the amount fixed by him as compensation; and,

(*d*) the grounds on which such amount was determined;

And to place amount of compensation in deposit.

and shall place the amount so fixed by him in deposit, there to be held on account of the persons interested, and shall issue a notice to the persons believed to be interested, informing them that the said amount has been deposited as required by this section, and that, should no application be made to the Court (as provided in the next succeeding section) within six weeks of the issue of the notice on the last of the persons named therein, the Collector will pay the amount to any persons legally authorized to receive and to give an acquittance for the same.

Objections to amount of

19. Any person on whom notice may be served under the last preceding section, and any person interested in any property in respect of which such

[a] See Act XIV of 1882, s. 3 and Chap. XIV, in General Acts, 1882—84, pp. 33, 73.

compensation fixed by Collector.

notice has been issued, may, within six weeks of the service of such notice, apply to the Court stating his objection to the amount of compensation as fixed by the Collector under the last preceding section, and the amount which he claims as compensation.

On receipt of such application the Court shall proceed to determine the amount of compensation to be paid on account of the claim and all other matters, as if a reference had been made to it under section 17.

Procedure in making reference.

20. In making reference under section 17 the Collector shall state, for the information of the Court, the particulars mentioned in section 18.

Procedure on receipt of reference under section 17.

21. On receipt of a reference under section 17 the Court shall proceed, as far as may be practicable, in accordance with sections 19 to 23 (inclusive), and sections 26 to 36 (inclusive), of the Land Acquisition Act, 1870,:[a] X of 1870.

Provided that, instead of the last clause of the said section 26, the following shall be read:—"The provisions of this section and of section 11 of the Bengal Irrigation Act, 1876, shall be read to every assessor in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded."

Particulars of apportionment to be specified.

22. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, whether such award be made by the Collector or by the Court, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Disputes as to apportionment.

23. When the amount of compensation has been settled under section 16, if any dispute arises as to the apportionment of the same or any part thereof, the Collector shall refer such dispute to the decision of the Court.

All costs entailed by such a reference, and the proceedings of the Court thereon, shall be paid by the parties who dispute the apportionment of the compensation, in such proportions as the Court may direct, and the Collector shall not be required to disburse any such costs, nor shall any such costs be recovered from the Collector.

Determination of proportions.

24. When the amount of compensation has been settled by the Court, and there is any dispute as to the apportionment thereof, or when a reference to the Court has been made under the last preceding section, the Judge sitting alone shall decide the proportions in which the persons interested are entitled to share in such amount.

Appeal.

An appeal shall lie from every such decision to the High Court, unless the Judge whose decision is appealed from is not the District Judge, in which case the appeal shall lie, in the first instance, to the District Judge.

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[a] S. General Acts, 1867—76, 2nd Ed., pp. 183-186.

Every appeal under this section shall be presented within the time and in manner provided by the Code of Civil Procedure* for regular appeals in suits.

XIV of 1882.

Payment of compensation.

25. Payment of the compensation shall be made by the Collector in accordance with the award made by him under section 16; or the proceeding held by him under section 18, if no application be made to the Court as provided by section 19; or the award made by the Court or the decision of the Judge under section 21; or, in the case of an appeal, under section 24, in accordance with the decision in appeal, as the case may be.

Government not liable to further claim.

26. The amount of compensation fixed by any award, proceeding or decision, as specified in the last preceding section, shall be deemed to be the full amount payable by the Government in respect of the claim dealt with therein; and the Government shall not be liable for any further claim to any person whatever in respect of any matter which was the subject of such award, proceeding or decision; nor shall any such claim be made against the Government in respect of the payment of any portion of such compensation in accordance with any award, proceeding or decision as aforesaid, or in accordance with any decision of the Judge, or of the District Judge, or of the High Court in appeal, as the case may be, under section 24; and no suit shall be brought to set aside an award or decision under this Act.

Liability of person receiving compensation not affected.

27. Nothing contained in the last preceding section shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Act to pay the same to the person lawfully entitled thereto.

Abatement of rent on interruption of water-supply.

28. Every tenant holding under an unexpired lease, or having a right of occupancy, who is in occupation of any land at the time when any stoppage or diminution of the supply in respect of which compensation is allowed under section 11 takes place, may claim an abatement of the rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding:

Provided that no part of the said compensation shall have been received by the said tenant in respect of such reduction in the value of his holding.

Enhancement of rent on restoration of water-supply.

29. If a water-supply increasing the value of such holding is afterwards restored to the said land otherwise than at the cost of the tenant, the rent of the tenant may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood immediately before the abatement.

Such enhancement shall be on account only of the restored water-supply, and shall not affect the liability of the tenant to enhancement of rent on any other grounds.

* See Act XIV of 1882, s. 3 and Chap. XLI, in General Acts, 1882—84, pp. 32, 171.

Compensation when due.

Interest.

30. All sums of money payable for compensation under this Part shall become due three months after the claim for such compensation is made in respect of the stoppage, diminution or damage complained of, and simple interest at the rate of six per centum per annum shall be allowed on any such sum remaining unpaid after the said three months, except where the non-payment of such sum is caused by the wilful neglect or refusal of the claimant to receive the same:

Collector may invest amount deposited or awarded in Government securities.

Provided that the Collector may at any time invest the whole or any portion of the amount payable as compensation under this Act in any Government securities, and such securities shall be held by the Collector for the benefit of the persons interested, and the persons interested shall be bound to receive such securities with any interest which may have accrued upon them as full payment of the sum which the Collector paid for such securities, and of any sum which he may have paid as expenses incurred in purchasing the same, and of any interest which might otherwise have accrued on such sums.

No compensation in respect of prior works.

31. No compensation shall be claimable under this Act in respect of any works executed before it came into force, or of any damage, injury or loss caused by such works.

Service of notice.

32. Service of any notice under this Part shall be made by delivering or tendering a copy thereof signed by the officer therein mentioned.

Whenever it may be practicable, the service of the notice shall be made on the person therein named.

When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business; and, if such person has no ordinary place of residence within the district, service of any notice may be made by sending copy of such notice by post in a registered cover addressed to such person at his usual place of residence.

PART III.

Of the Maintenance of Canals.

Entry for enquiry.

33. Whenever it shall be necessary to make any enquiry or examination in connection with a projected canal or with the maintenance of an existing canal, or with a projected flood-embankment, or with the maintenance of an existing flood-embankment, any canal-officer or other person acting under the general or special orders of a canal-officer may enter upon such land as he

may think necessary for the purpose, and may exercise all powers and do all things in respect of such lands as he might exercise and do if the Government had issued a notification under the provisions of section 4 of the Land Acquisition Act, 1870,[a] to the effect that land in that locality is likely to be needed for a public purpose; and may set-up and maintain water-gauges, and do all other things necessary for the prosecution of such enquiry and examination.

X of 1870.

Power to inspect and regulate water-supply.

34. Such canal-officer or other person may also enter upon any land, building or village-channel on account of which any water-rate is chargeable for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of the canal from which such water is supplied.

Power to enter for repairs, and to prevent accidents.

35. In case of any accident being apprehended or happening to a canal or flood-embankment, any canal-officer, or any person acting under his general or special orders in this behalf, may enter upon any lands adjacent to such canal or flood-embankment, and may execute all works which may be necessary for the purpose of preventing such accident, or repairing any damage done.

Notice to occupier of building, &c.

36. When such canal-officer or person proposes, under the provisions of either of the three last preceding sections, to enter into any building or enclosed court or garden attached to a dwelling-house not supplied with water flowing from any canal, and not being adjacent to a flood-embankment, he shall previously give to the occupier of such building, court or garden such reasonable notice as the urgency of the case may allow.

Compensation for damage to land.

37. In every case of entry upon any land or building under section 7, section 33, section 34 or section 35, the canal-officer or person making the entry shall ascertain and record the nature of any crop, tree, building or other property to which damage has been done, and the extent of the damage done to any such property, and shall tender compensation to the proprietors or occupiers for all damage done to the same by the entry or by any works executed.

If such tender is not accepted, the canal-officer shall refer the matter to the Collector, who shall thereupon give notice in writing to the person interested in such land and to the canal-officer, requiring them to attend before him, on a date to be fixed in the notice, for the purpose of making enquiry as to the amount of compensation.

Appeal from Collector's decision to Commissioner.

38. After such enquiry as he may think necessary, the Collector shall decide the amount of compensation payable; and such decision shall be subject to an appeal to the Commissioner of the Division:

Provided that such appeal be presented to the Commissioner, or to the

[a] See General Acts, 1867—76, 2nd Ed., p. 179.

Collector for transmission to the Commissioner, within thirty days of the decision appealed against.

If no such appeal be preferred, the decision of the Collector, or, if such appeal be preferred, the decision of the Commissioner, shall be final and conclusive.

Government to provide means of crossing canals and of drainage.

39. Suitable means of crossing canals constructed or maintained at the cost of Government shall be provided at such places as the Lieutenant-Governor thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands; and suitable bridges, culverts or other works shall be constructed to prevent the drainage of the adjacent lands being obstructed by any canal.

Collector to certify to Government that means of crossing canals and drainage have been provided.

On the completion of any canal or of any convenient section of any canal, the Collector, after causing such inspection to be made as may be necessary, shall certify to the Government that suitable and sufficient means of crossing the canal, and suitable and sufficient means of drainage as aforesaid, have been provided; or shall report in what respects the provision made for the above purposes is defective; and if, at any time after he shall have given such certificate, it shall be brought to his notice that the provision made as above has proved insufficient, the Collector shall cause enquiry to be made into the circumstances of the case, and, if the statement is established, shall report his opinion thereon for the consideration of the Lieutenant-Governor, and the Lieutenant-Governor shall cause such measures in reference thereto to be taken as he thinks proper.

PART IV.

Of Drainage.

Lieutenant-Governor may prohibit formation of obstructions within certain limits.

40. Whenever it appears to the Lieutenant-Governor that injury to the public health or public convenience, or to any canal, or to any land for which irrigation from a canal is available, has arisen or may arise from the obstruction of any river, stream or natural drainage-course, the Lieutenant-Governor may, by notification published in the Calcutta Gazette, prohibit, within limits to be defined in such notification, the formation of any such obstruction, or may, within such limits, order the removal or other modification of such obstruction.

Thereupon so much of the said river, stream or natural drainage-channel as is comprised within such limits shall be held to be a drainage-work as defined in section 3.

Canal-officer may issue notice to

41. The canal-officer or other person authorized by the Lieutenant-Governor in that behalf may, after such publication, issue an order to the person

causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order. *Person causing obstructions.*

42. If, within the time so fixed, such person does not comply with the order, the canal-officer may cause the obstruction to be removed or modified; and if the person to whom the order was issued does not, when called upon, pay the expenses of such removal or modification, such expenses shall be recoverable as a demand.[a] *Canal-officer may cause obstructions to be removed.*

43. Whenever it appears to the Lieutenant-Governor that any drainage-works are necessary for the public health, or for the improvement or proper cultivation or irrigation of any lands in districts to which the provisions of the Bengal Embankment Act, 1873,[b] do not apply, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any lands, *When drainage-works necessary, Lieutenant-Governor may order scheme to be drawn up and carried out.*

Ben. VI of 1873.

the Lieutenant-Governor may cause a scheme for such works to be drawn up and carried into execution, and the persons authorized by the Lieutenant-Governor to draw up and execute such scheme may exercise in connection therewith all or any of the powers conferred on canal-officers by sections 33, 34 and 35, and shall be liable to any or all of the obligations imposed upon canal-officers by sections 36 and 37.

44. Whenever, in pursuance of a notification made under section 40, any obstruction is removed or modified; *Disposal of claims to compensation.*

or whenever any drainage-work is carried out under the last preceding section,

all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction, or the construction of such work, may be made before the Collector, and he shall deal with the same in the manner provided in Part II; but no compensation shall be allowed for any damage arising from increase of percolation.

45. No such claim shall be entertained after the expiration of six months from the occurrence of the loss complained of, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period. *Limitation of such claims.*

PART V.

Of Village-channels.

46. "Person" in this Part includes any number of persons acting jointly. *"Person" defined.*

[a] The rest of s. 42, repealed by Ben. Act VII of 1880, s. 3, has here been omitted. As to recovery of demands under s. 42, see ss. 7 (3) and 8 of that Act, *infra*.

[b] See *supra*, p. 191.

Register of village-channels to be kept.

47. The canal-officer shall keep a register of all village-channels, whether already existing or constructed under this Act, and shall note thereon in respect of every village-channel whether it is a public channel maintained at the cost of the Government, or a private channel maintained at the cost of the owners; and shall register the names of the owners of every such private channel.

Extension or branch of village-channel to be registered.

A village-channel made as an extension of, or a branch to, an existing village-channel shall be registered as a separate village-channel; and so much of the length of any village-channel as lies within the limits of any one village or mauza shall be entered on the register as a separate village-channel.

Every section of a village-channel so separately entered on the register shall be deemed to be a separate village-channel in respect of all rights and liabilities imposed by this Act:

Canal-officer may register as one village-channel section including portions lying within two or more villages.

Provided always that, whenever it shall seem fit to the canal-officer for any special reason to enter upon his register as one village-channel a section of a village-channel which includes portions lying within two or more villages or mauzas, the canal-officer may, with the consent of the Collector obtained in writing, register such section as one village-channel, and such section shall be deemed to be one village-channel in respect of all rights and liabilities imposed by this Act.

Person may acquire existing village-channel by agreement.

48. Any person may, with the consent of the canal-officer, acquire the property in an existing village-channel for the purpose of improving or maintaining it—

(*a*) by taking over any village-channel belonging to Government;

(*b*) by transfer of a village-channel from the owner thereof by private agreement.

Construction of new village-channel.

49. Any person may, with the permission of a canal-officer, construct a new village-channel if he has obtained the consent of the owners and occupiers of the land required therefor.

Application by person desiring construction of new village-channel.

50. Any person desiring the construction of a new village-channel, but being unable or unwilling to construct it under a private arrangement with the owners and occupiers of the land affected, as mentioned in the last preceding section, may apply in writing to the canal-officer stating—

that he desires the said canal-officer, in his behalf and at his cost, to do all things necessary for constructing such village-channel;

that he is ready to defray all costs necessary for acquiring the land and constructing such village-channel.

Procedure when canal-officer considers construction

51. If the canal-officer considers the construction of such village-channel expedient, he may call upon the applicant to deposit any part of the expense such officer may consider necessary,

and, upon such deposit being made, shall cause enquiry to be made into the most suitable alignment for the said village-channel, *struction of village-channel expedient.*

and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof,

and shall forthwith publish a notification in every village through which the village-channel is proposed to be taken that so much of such land as is situated within such village has been so marked out,

and shall send a copy of such notification to the Collector of every district in which any part of such land is known to be situate for publication on such land.

Such notification shall also call upon any person who wishes to be admitted a joint owner of such village-channel to make his application in that respect within thirty days of the publication of such notification. *Notice to person wishing to be joint owner.*

If any such applicant appears, and his application is admitted, he shall be liable to pay his share in the construction of such village-channel and in the cost of acquiring such land, and shall be an owner of such village-channel when constructed.

52. On receipt of copy of such notification the Collector shall proceed to acquire such land under the provisions of the Land Acquisition Act, 1870,[a] as if a declaration had been issued by the Government for the acquisition thereof under section 6 of that Act, and as if the Government had thereupon directed the Collectotor take order for the acquisition of such land under section 7 of the said Act, and (if necessary) as if the Government had issued orders for summary possession being taken under section 17 of the said Act. *Collector to acquire land.* *of 1870.*

53. On being put in possession of the land the canal-officer shall construct the required village-channel; and on its completion shall give to the applicant notice thereof, and of any sum payable by him on account of the cost of acquiring the land and constructing the village-channel. *Procedure after construction of village-channel.*

On such notice being given such sum shall be due from the applicant to the canal-officer.

On receipt of payment in full of all expenses incurred the canal-officer shall make over possession of such village-channel to such applicant.

54. Whenever a canal-officer considers that the transfer of a village-channel from the owner is necessary for the proper management of the irrigation from such village-channel, he may cause a notice to be served on the registered owner to appear on a certain day, not less than fifteen days after service of notice, and to prefer any objection to such transfer. *Canal-officer may direct transfer of village-channel.*

After hearing such objection the canal-officer may order that such village-

[a] See General Acts, 1867—76, 2nd Ed., p. 177.

channel shall be transferred to such person as he may think fit, and that such person be registered as owner of the said village-channel:

Provided that no person shall be registered as the owner of a village-channel under this section, unless he has expressed in writing his willingness to be so registered, and until he has paid to the canal-officer such sum as may be fixed by the canal-officer under section 56.

Person may be admitted joint owner of existing village-channel.

55. Any person wishing to become the joint owner of an existing village-channel may petition the canal-officer to that effect, and on receipt of such petition the canal-officer may, if he think fit, issue a notice as provided in the last preceding section upon the registered owner, and, after hearing any objection which the registered owner may prefer against the admission of such applicant to be a joint owner, may direct that the applicant shall be registered as such joint owner.

Canal-officer to fix sums payable on transfer or acquisition of joint ownership.

56. When deciding the question of transfer or of admission to joint ownership under either of the two last preceding sections, the canal-officer shall also determine what amount shall be paid—

as the costs of the proceedings;

as compensation to the previous owners;

and the amount so determined shall be due by the transferee or the person admitted to registry as a joint owner, as the case may be; and, on payment of such amount, the village-channel shall be transferred, or the applicant shall be registered as owner or as a joint owner thereof, as the case may be.

Canal-officer may fix rent for a village-channel transferred.

57. Instead of awarding payment of compensation under the last preceding section, the canal-officer may fix an amount of rent to be paid annually to the previous owners by the persons to whom the village-channel is transferred.

Ownership of village-channel.

58. Every person—

(*a*) acquiring a village-channel as provided in section 48; or

(*b*) constructing a village-channel as provided in section 49; or

(*c*) receiving possession of a village-channel as provided in section 53; or

(*d*) acquiring a village-channel by transfer as provided in section 54; or

(*e*) being admitted to registration as joint owner in a village-channel as provided in section 55,

shall be deemed to be an owner of such village-channel.

Obligations and rights of owner of village-channel.

59. Every owner of a village-channel shall be bound—

(*a*) to construct and maintain all works necessary for the passage across such village-channel of canals, village-channels, drainage-channels and public roads existing at the time of its construction, and of the drainage intercepted by it, and for affording proper communica-

tions across it for the convenience of the occupants of neighbouring lands;

(*b*) to maintain such village-channel in a fit state of repair for the conveyance of water;

(*c*) to allow the use of it to others on such terms as may be declared equitable by the canal-officer as hereinafter prescribed;

and shall be entitled—

(*d*) to have a supply of water by such village-channel at such rates and on such terms as are prescribed by the rules made by the Lieutenant-Governor under section 99;

(*e*) to receive such rent for the use of the village-channel by other persons as the canal-officer may award him.

If owner of village-channel fails to execute work or repair, canal-officer may do so.

60. If the owner of a village-channel fails to fulfil the obligations mentioned in clauses (*a*) and (*b*) of the last preceding section, the canal-officer may require him by notice to execute the necessary works or repairs within a period not being less than fifteen days, and in the event of failure may execute them on his behalf; and all expenses incurred by the execution of such works or repairs shall be a sum due by such owner to Government; and, if any such owner who has already failed on one occasion to execute such works or repairs when required to do so, and has left them to be executed on his behalf by the canal officer, shall again fail to execute any such works or repairs when required to do so; or if any such owner shall refuse in any respect to fulfil the obligation mentioned in clause (*c*) of the last preceding section, after having been required to fulfil the same by a notice in writing from the canal-officer, the canal-officer may strike such village-channel off the register, and so disqualify it to be any longer a medium for the conveyance of canal-water.

Resignation of ownership.

61. Any owner may resign his interest in a village-channel:

Provided such resignation be duly registered in the office of the canal-officer.

Owner may transfer interest.

62. Any owner of a village-channel may, with the consent of the canal-officer, transfer his interest to any other person:

Provided that the liabilities of the person so transferring shall not cease till such transfer is registered in the office of the canal-officer.

Procedure on death of owner of village-channel.

63. If any owner of a village-channel dies, his legal representative may apply for registration in his stead.

If no such application for registry be made within six weeks from the death of the said owner, the remaining registered owners of the village-channel, if any, shall be deemed to be owners of the entire interest in the village-channel, until some other person shall have established his claim to be registered as owner in place of the deceased.

If the deceased shall have been the sole registered owner, the canal-officer shall be deemed to be his representative for the purposes of this Part, and shall exercise all rights and be bound by all liabilities which attached to the deceased in respect of his ownership of the said village-channel, until some person shall have established his right to be registered as owner thereof in place of the deceased; and the canal-officer shall account to such person for all sums received and expended in the exercise of the rights and discharge of the liabilities which attached to the deceased in respect of such ownership.

Procedure when person applies for registration in lieu of deceased owner.

64. When any person applies for registration under the three last preceding sections, the canal-officer shall serve notice on the other registered owners to prefer any objection to the resignation, transfer or succession within fifteen days, and, if no such objection shall be made, or if the objections made be deemed invalid, shall order such resignation, transfer or succession to be registered.

Interest of owners equal, unless unequal interests registered.

65. All joint owners of a village-channel shall be held to have an equal interest in it, unless, with the permission of the canal-officer, they register specific unequal interests.

Supply of water to person not owner.

66. Any person not an owner of a village-channel, desiring to have a supply of water through such village-channel, may make a private arrangement with the owners for the conveyance of water, or may apply to the canal-officer for authority to use such village-channel.

Canal-officer may authorize supply.

67. On receipt of such application the canal-officer shall serve notice on the owners to show cause why such permission should not be granted, and, if no objection be raised, or if any objections be raised and found invalid, shall authorize the conveyance of such supply on such conditions as may appear to him equitable.

Canal-officer to fix rent of village-channel.

68. The canal-officer shall also fix a sum as rent to be paid for the use of such village-channel to the owner.

Such rent may be in the form of a percentage on the water-rate of the person using the village-channel, or otherwise, as may be fixed by the canal-officer.

Owner of village-channel receiving supply through another village-channel.

69. The owner of a village-channel which receives its water through another village-channel may, at the discretion of the canal-officer, either be declared a joint owner of such other village-channel, or may be required to pay rent for the use of the same to the owner thereof, as provided in the last preceding section.

Instalments in which rent is payable.

70. All rent payable under either of the two last preceding sections shall be deemed to be due in the same instalments and at the same periods as the water-rate is due, or in such other instalments and at such other dates as the

canal-officer may direct, and may be collected by the canal-officer on behalf of the person entitled to it, if the canal-officer thinks fit.

Canal-officer to pay no more than amount collected.

71. Any canal-officer collecting rent under the last preceding section on behalf of any person entitled thereto shall be bound to pay to the person entitled to the same no more than the amount actually collected by him as rent.

Land acquired not to be used for other purpose.

72. No land acquired under this Part for a village-channel shall be used for any other purpose without the consent of the canal-officer previously obtained.

Dues how recovered.

73. Every sum declared to be due under this Part shall be recoverable by the canal-officer on behalf of the Government or of the person entitled to receive the same, and shall be held to be a demand.[a]

PART VI.

Of the Supply of Water.

Water supplied on written application only.

74. Every person desiring that water shall be supplied to his land from a canal shall present a written application to that effect to the canal-officer, in the form given in Schedule B hereto annexed, or in a similar form, binding himself by the rules made by the Lieutenant-Governor under the powers vested in him by this Act; and no person shall be liable to pay any rate or due whatever, on account of water supplied to his land with the permission of the canal-officer, otherwise than on such application, nor shall water be supplied otherwise than on such application.

Written permission to be given.

75. If the application mentioned in the last preceding section be granted by the canal-officer, the canal-officer shall cause his permission to be recorded in the form given in Schedule C hereto annexed, or in some similar form, binding himself by the rules made by the Lieutenant-Governor as aforesaid.

Rules subject to conditions as to—

76. All rules made by the Lieutenant-Governor under section 99 shall be consistent with the following conditions:—

power to stop water-supply;

(*a*) The canal-officer may not stop the supply of water to any village-channel, or to any person who is entitled to such supply, except in the following cases:—

(1) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority;

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[a] The rest of s. 73, repealed by Ben. Act VII of 1880, s. 3, has here been omitted. As to recovery of demands under s 73, see ss. 7 (*3*) and 8 of that Act, *infra*.

(2) whenever and so long as any village-channel is not maintained in such repair as to prevent the wasteful escape of water therefrom;

(3) whenever and so long as it is necessary to do so in rotation to supply the legitimate demands of other persons entitled to water;

(4) whenever and so long as it may be necessary to stop the supply in order to prevent the wastage or misuse of water:

claims to compensation in case of failure or stoppage of supply;

(*b*) No claim shall be made against the Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal, by reason of any cause beyond the control of the Government, or of any repairs, alterations or additions to the canal, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the canal-officer considers necessary; but the person suffering such loss shall be entitled to such remission of the ordinary charges payable for the use of the water as is authorized by the Lieutenant-Governor:

claims on account of interruption from other causes;

(*c*) If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clause, the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector shall award to the petitioner reasonable compensation for such loss:

duration of supply;

(*d*) When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity, and to apply only to that crop; but, if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year:

sale or sub-letting of right to use canal-water;

contracts for water transferable with land.

(*e*) No person entitled to use the water of any canal, or any work, building or land appertaining to any canal, shall sell or sub-let or otherwise transfer his right to such use without the permission of the canal-officer, but all contracts made between Government and the owner or occupier of any immoveable property, as to the supply of canal-water to such property, shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place.

Canal-officer may supply water for purposes other than those of irrigation.

77. On application being made for a supply of water to be used for purposes other than those of irrigation, the canal-officer may give permission for water to be taken for such purposes under such special conditions and restrictions as to the limitation and control of the supply as he shall think proper to impose in each case.

PART VII.

Of Water-rates.

78. The rates to be charged for canal-water supplied for purposes of irrigation shall be determined by the Lieutenant-Governor, and all persons accepting the water shall pay for it accordingly.

Charge for water how determined.

79. If water supplied through a village-channel be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified,

the persons on whose land such water has flowed, if such land has derived benefit therefrom,

or, if no land has derived benefit therefrom, all the persons chargeable in respect of the water supplied through such village-channel in respect of the crop then on the ground,

shall be liable to the charges made for such use, as determined by the Lieutenant-Governor under section 99.

Liability when person using water unauthorizedly cannot be identified.

80. If water supplied through a village-channel be suffered to run to waste, and if, after enquiry by the canal-officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such village-channel for the crop then on the ground shall be jointly liable for the charges made in respect of the water so wasted, as determined by the Lieutenant-Governor under section 99.

All questions arising under this and the last preceding section shall be decided by the canal-officer, subject to the provisions of section 91.

Liability when water runs to waste.

81. All charges for the unauthorized use or for waste of water shall be deemed to be water-rate due on the crop, and may be recovered as such water-rate in addition to any penalties incurred on account of such use or waste.

Charges recoverable in addition to penalties.

82. The canal-officer may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party.

Power to contract for collection of canal-dues.

83. Any sum lawfully due under this Part, either to the Government, or to any person who has entered into an agreement to collect dues for the Government and certified by the canal-officer to be so due, shall be deemed to be rent payable on a pattá or engagement in respect of the land irrigated, and shall be recoverable as such by the person to whom it is payable:

Provided that the claim (if any) for rent in respect of such land shall have

Sum payable under this Part deemed to be rent.

priority over any claim for arrears of water-rate so far as regards recovery of rent by the exercise of the power of distraint.

Person who distrains may be called on to produce account.

84. If any person distrains half or more than half of any crop on account of which water-rate is due, such person shall be bound, on requisition by the canal-officer, to furnish him with an account showing how the produce thus distrained has been appropriated in payment of such rent, and the canal-officer shall be entitled to challenge such account before any Court competent to try suits for arrears of rent in respect of the land in question, and such Court, if it finds that the value of the crop distrained was in excess of the amount of rent which had been due for a period not longer than a year, together with the costs of the distraint, may require the distrainer to pay the water-rate due on such crop.

Arrears of water-rate deemed to be demands.

85. Every arrear of water-rate which is due to Government, and every sum due to Government by any person on account of collections of water-rate, and every sum due to such person on account of water-rate and certified by the canal-officer to be so due, shall also be held to be a demand.[a]

Sections not applying to fines.

86. Nothing in sections 82 to 85 (inclusive) applies to fines.

PART VIII.

Of Jurisdiction.

Settlement of disputes as to mutual rights and liabilities of persons interested in village-channel.

87. Whenever a dispute arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a village-channel, any such person interested may apply in writing to the canal-officer stating the matter in dispute.

Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to enquire into the said matter, and, after such enquiry, he may pass his order thereon, or may transfer the matter to the Collector, who shall thereupon enquire into and pass his order on the said matter.

Dispute as to shares and payments.

88. Whenever any dispute arises among joint owners of a village-channel as to their shares of expense or as to the amounts severally contributed, or as to failure on the part of any owner to contribute his share, the matter may be decided after enquiry by the canal-officer or Collector, as provided in the last preceding section.

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[a] The rest of s. 85 repealed by Ben. Act VII of 1880, s. 3, has here been omitted. As to recovery of demands under s. 85, see ss. 7 (*3*) and 8 of that Act, *infra*.

89. Any order passed by the Collector, under either of the two last preceding sections, and, subject to the provisions of section 91, any such order passed by a canal-officer, shall remain in force until set aside by the decree of a Civil Court, and may be executed by any canal-officer as if it were a decree of the Civil Court.

Order passed by Collector and canal-officer to remain in force until set aside by Civil Court.

90. All suits arising out of the exercise of the power of distraint for recovery of water-rates,

or out of any acts done under colour of the exercise of the said power of distraint,

or by persons in receipt of the water-rates against any agents employed by them in the collection of such water-rates, or the sureties of such agents for money received or for accounts kept by such agents in the course of such employment, or for papers in their possession,

shall be cognizable by the same Court or authority as would have jurisdiction if such water-rates were rent due for the land irrigated.

Jurisdiction as to suits arising out of powers of distraint.

91. Every order passed by a canal-officer under Part V, Part VI, Part VII or Part VIII of this Act shall be appealable to the Collector, provided that the appeal be presented within thirty days of the date on which the canal-officer made the order appealed against; and no appeal shall lie against any proceeding or order of the Collector under this Act, except as otherwise expressly provided in this Act, but all such proceedings and orders shall be subject to the supervision and control of the Commissioner of the Division and of the Board of Revenue, who may pass such order thereon as they may respectively think fit.

Appeal and supervision.

92. Any officer empowered under this Act to conduct any enquiry may exercise all such powers connected with the summoning and examining of witnesses, as are conferred on Civil Courts by the Code of Civil Procedure;[a] and every such enquiry shall be deemed a judicial proceeding.

Power to summon and examine witnesses.

of 1882.

PART IX.

Of Offences and Penalties.

93. Whoever, voluntarily and without proper authority, does any of the acts following, that is to say:—

Offences under Act.

(1) damages, alters, enlarges or obstructs any canal or drainage-work;

(2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under, any canal or drainage-work, or

[a] See Act XIV of 1882, s. 3, in General Acts, 1882—84, p. 32.

by any means raises or lowers the level of the water in any canal or drainage-work;

(3) being responsible for the maintenance of a village-channel, or using a village-channel, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner;

(4) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;

(5) destroys, defaces or moves any level-mark or water-gauge fixed by the authority of a public servant;

(6) destroys or removes any apparatus, or part of any apparatus, for controlling or regulating the flow of water in any canal or drainage-work;

(7) passes, or causes animals or vehicles to pass, in or across any of the works, banks or channels of a canal contrary to rules made under this Act, after he has been desired to desist therefrom;

(8) without the permission of the canal-officer causes, or knowingly and wilfully permits, any cattle to graze upon any flood-embankments, or tethers, or causes or knowingly and wilfully permits any cattle to be tethered upon any such embankments, or roots up any grass or other vegetation growing on any such embankments, or removes, cuts or in any way injures or causes to be removed, cut or otherwise injured, any trees, bushes, grass or hedge intended for the protection of such embankment;

(9) violates any rule made under the Act, for breach whereof a penalty may be incurred,

Penalty.

shall, in case the offence shall not amount to mischief within the meaning of the Indian Penal Code,[a] and on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees, or to imprisonment for a term not exceeding one month, or to both. XLV of 1860.

Further offences.

94. Whoever, without the authority of the canal-officer,—

(1) pierces or cuts through, or attempts to pierce or cut through, or otherwise to damage, destroy or endanger the stability of, any flood-embankment;

(2) opens, shuts or obstructs, or attempts to open, shut or obstruct, any sluice in any such embankment;

(3) makes any dam or other obstruction for the purpose of diverting or opposing the current of a river on the banks whereof are flood-embankments, or refuses or neglects to remove any such dam or obstruction when so required by the canal-officer,

Penalty.

shall, in case the offence shall not amount to mischief within the meaning

[a] See Act XLV of 1860, s. 425, in General Acts, 1834—66, 2nd Ed., p. 339.

XLV of 1860. of the Indian Penal Code,[a] and on conviction before a Magistrate, be liable to a fine not exceeding two hundred rupees, or to imprisonment for a term not exceeding six months.

Obstruction to be removed and damage repaired.

95. Whenever any person is convicted of an offence under either of the last two preceding sections, the convicting Magistrate may order that he shall remove the obstruction or repair the damage in respect of which the conviction is held within a period to be fixed in such order.

If such person neglects or refuses to obey such order within the fixed period, the canal-officer may remove such obstruction, or repair such damage, and the cost of such removal or repair shall be levied from such person by the Collector as a demand under section 1 of the aforesaid Bengal Act VII of 1868.[b]

Persons employed on canal may take offenders into custody.

96. Any person in charge of, or employed upon, any canal may remove from the lands or buildings belonging thereto, or may take into custody without a warrant and take forthwith before a Magistrate or to the nearest police-station, to be dealt with according to law, any person who within his view commits any of the following offences:—

(1) wilfully damages or obstructs any canal;

(2) without proper authority interferes with the supply or flow of water, in or from any canal or in any river or stream, so as to make dangerous or render less useful any canal.

Saving of prosecution under other laws.

97. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act:

Provided that no person shall be punished twice for the same offence.

Compensation to person injured.

98. Whenever any person is fined for an offence under this Act, the Magistrate may direct that the whole or any part of such fine may be paid by way of compensation to any person injured by such offence, or to any person who gave information leading to the detection of such offence, or to the conviction of the offender.

PART X.

Of Subsidiary Rules.

Power to make, alter and cancel rules.

99. The Lieutenant-Governor may, from time to time, make rules to regulate the following matters:—

(*a*) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

[a] See Act XLV of 1860, s. 425, in General Acts, 1834—66, 2nd Ed., p. 339.

[b] The portion of s. 1 of Ben. Act VII of 1868 to which this clause refers has been repealed by Ben. Act VII of 1880.

(*b*) the cases in which, the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;

(*c*) the person by whom, the time, place or manner at or in which, anything for the doing of which provision is made in this Act shall be done;

(*d*) the amount of any charge made under this Act;

(*e*) and generally to carry out the provisions of this Act.

The Lieutenant-Governor may, from time to time, alter or cancel any rules so made.

Publication of rules.

Such rules, alterations and cancelment shall be published in the Calcutta Gazette, and shall thereupon have the force of law:

Provided that no rules shall be made by the Lieutenant-Governor under the powers conferred on him by this section until a draft of the same shall have been published in the Calcutta Gazette for one month, after which time the Lieutenant-Governor may pass such rules as originally published, or with such alterations, additions and omissions as he may think fit.

SCHEDULE A.

(*See section 2.*)

ACTS OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
VIII of 1867 .	Recovery of rates for water supplied by the East India Irrigation and Canal Company.	So much as has not been repealed.
VI of 1869 .	Recovery of rates for water supplied for purposes of Irrigation.	The whole Act.

SCHEDULE B.

(*See section 74.*)

APPLICATION FOR WATER.

No.

Mauza
Pergunnah
Canal
Village-channel
Name of owner of village-channel
Name of applicant

I, the undersigned, hereby apply for water from the above-named village-

channel for the fields and crops below detailed, and I engage to pay to the canal-officer, or other person duly authorized to receive them, the water-rates as prescribed by the Lieutenant-Governor under the provisions of the Bengal Irrigation Act, and I further agree to abide by all the rules issued under that Act:—

No. of field in revenue-map.	Acreage of field.	Crop to be grown.

Signature or mark of applicant.

Date _____

SCHEDULE C.

(*See section 75.*)

PERMISSION TO TAKE WATER.

No.

Permit of village to take water from
canal
village-channel
for the undermentioned fields and crops:—

No. of field.	Acreage of field	Crops to be grown.	Water-rate due.	Date of payment.

Signature of Canal-officer.

Date _____

ACT No. VII OF 1876.[a]

Received the Lieutenant-Governor's assent on the 22nd July, 1876, and the Governor General's assent on the 9th August, 1876.

An Act to provide for the registration of revenue-paying and revenue-free lands, and of the proprietors and managers thereof.

Preamble.

WHEREAS it is expedient to make better provision for the preparation and maintenance of registers of revenue-paying and revenue-free lands, and of the proprietors and managers thereof, and of certain mortgages of revenue-paying lands; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title. Commencement.

1. This Act may be called the Land Registration Act, 1876, and it shall come into force from the date[b] on which it may be published in the Calcutta Gazette with the assent of the Governor General, which date is hereinafter referred to as the commencement of this Act.

Regulations repealed.

2. From the commencement of this Act,[b] the Regulations mentioned in the schedule hereto annexed, to the extent specified in the third column thereof, shall cease to have effect in the provinces subject to the Lieutenant-Governor of Bengal.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

"Civil Court."

(1) "Civil Court" means any Civil Court which is competent to hear and determine the matter with respect to which the words are used:

"Estate."

(2) "estate" includes—

(*a*) any land subject to the payment of land-revenue, either immediately or prospectively, for the discharge of which a separate engagement has been entered into with Government:

(*b*) any land which is entered on the revenue-roll as separately assessed with land-revenue (whether the amount of such assessment be pay-

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[a] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2; also in the Districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan, under s. 3 of the Scheduled Districts Act, 1874—see Vol. I, p. 678.

[b] *i.e.*, the 23rd August, 1876.

able immediately or prospectively), although no engagement has been entered into with Government for the amount of revenue so separately assessed upon it as a whole :

(*c*) any land being the property of Government of which the Board shall have directed the separate entry on the general register hereinafter mentioned :

(3) "extent of interest" means the share or interest in an estate or revenue-free property of which the person with respect to whom the words are used is in possession as proprietor or manager : "Extent of interest."

(4) "Lieutenant-Governor" means the Lieutenant-Governor of Bengal for the time being, or the person acting in that capacity : "Lieutenant-Governor."

(5) "local division" means a subdivision, pergunnah, thana, police-division of jurisdiction, or other division according to which the mauzawár register of the district is arranged : "Local division."

(6) "manager" means every person who is appointed by the Collector, the Court of Wards[a] or by any Civil or Criminal Court to manage any estate or revenue-free property or any part thereof, and every person who is in charge of an estate or revenue-free property or any part thereof on behalf of a minor, idiot or lunatic, or on behalf of a religious or charitable foundation : "Manager."

(7) "mauza" includes every village, hamlet, tola and other similar subdivision of land commonly in use in any district, by whatever name such subdivision may be known : "Mauza."

(8) "proprietor" means every person being in possession of an estate or revenue-free property, or of any interest in an estate or revenue-free property as owner thereof, and includes every farmer and lessee who holds an estate or revenue-free property directly from or under the Collector : "Proprietor."

(9) "recorded proprietor" means any proprietor whose name, and the character and extent of whose interest in an estate or revenue-free property, stand registered in any general register now existing or hereafter to be made under this Act : "Recorded proprietor."

(10) "revenue-free property" means any land not subject to the payment of land-revenue which is included under one entry in any part of the general register of revenue-free lands : "Revenue-free property."

(11) "section" means a section of this Act : "Section."

(12) "the Board" means the Board of Revenue of the provinces for the time being subject to the Lieutenant-Governor of Bengal : "The Board."

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[a] For power of Court of Wards to appoint a manager, see Ben. Act IX of 1879, s. 20, *infra*.

"The Collector."

(13) "the Collector" means the Collector of the district to which a register relates:

"The district."

(14) "the district" means the district to which a register relates.

PART II.

Of the Registers to be kept up by the Collector.

Collector to keep registers.

4. The Collector of every district shall prepare and keep up the following registers:—

A.—A general register of revenue-paying lands;

B.—A general register of revenue-free lands;

C.—A mauzawár register of all lands revenue-paying and revenue free;

D.—An intermediate register of changes affecting entries in the general and mauzawár registers.

Forms, language character and arrangement of registers.

5. The register shall be written in such forms, language and character, and shall be arranged in such manner not being inconsistent with the provisions of this Act, as the Board from time to time may direct for each district.

The entries in each part of the general registers shall be numbered in one consecutive series for the whole district, and shall follow one alphabetical arrangement, running from the beginning to the end of the part.

General register of revenue-paying lands.

6. The general register of revenue-paying lands shall consist of two parts:—

Part I.—Book of estates borne on the revenue-roll of the district.

Part II.—Book of lands situated in the district appertaining to estates borne on the revenue-rolls of other districts.

Part I of general register.

7. In Part I of the general register of revenue-paying lands shall be entered the name of every estate which is borne on the revenue-roll of the district, and the following particulars relating to every such estate:—

(*a*) name of the estate;

(*b*) number of the estate on the revenue-roll of the district, and the annual amount of revenue for which it is liable;

(*c*) names and addresses of the proprietors, managers and mortgagees of the estate, with the character and extent of the interest of each proprietor, manager and mortgagee;

(*d*) name of every local division in which any lands of the estate are situated, whether in the district, or in any other district, with specification under each local division of—

(i) the number of mauzas containing such lands,

(ii) the name of each mauza,

(iii) the number which each mauza bears under the local division in the mauzawár register, and

(iv) the area of land appertaining to the estate which each mauza contains, if ascertained by survey or other authentic measurement;

(*e*) reference to entries made in the intermediate register after the preparation of the general register.

Part II of general register.

8. In Part II of the general register of revenue-paying lands shall be entered the name of every estate which comprises lands situated in the district, but which is borne on the revenue-roll of some other district, and the following particulars relating to every such estate:—

(*a*) name of the estate;

(*b*) name of the district on the revenue-roll of which the estate is borne, with the number which the estate bears on that roll, the annual amount of revenue for which it is liable, and the number which the estate bears in Part I of the general register of revenue-paying lands for its own district;

(*c*) names and addresses of the proprietors, managers or mortgagees of the estate, with the character and extent of the interest of each proprietor, manager and mortgagee;

(*d*) name of every local division of the district to which the register relates, in which any lands of the estate are situated, with a specification under each local division of—

(i) the number of mauzas containing such lands,

(ii) the name of each mauza,

(iii) the number which each mauza bears under the local division in the mauzawár register of the district, and

(iv) the area of land appertaining to the estate which each mauza contains if ascertained by survey or other authentic measurement;

(*e*) reference to entries made in the intermediate register after the preparation of the general register.

General register of revenue-free lands.

9. The general register of revenue-free lands shall consist of three parts—

Part I.—Book of lands held exempt from revenue in perpetuity.

Part II.—Book of lands occupied for public purposes without payment of revenue.

Part III.—Book of unassessed waste-lands and other lands not included in Part I or Part II of the general register of revenue-free lands.

Part I of general register of revenue-free lands.

10. In Part I of the general register of revenue-free lands shall be entered all lands held under bádsháhi, hukámi and other lákhiráj grants which have been declared to be valid by competent authority;

all lands in which the Government has conferred a proprietary title free in perpetuity from any demand on account of land-revenue, in consideration of the payment of a capitalized sum, or for any other reason; and

any lands of which the Board, on a full report of the circumstances of the case, shall have sanctioned the entry in this part of such register.

Part I of such register shall, as far as possible, contain the following particulars in respect of each entry:—

(*a*) name of the revenue-free property with the character of the tenure—whether jágir, altamgha, debottar, bishnprit, purchased revenue-free, redeemed or otherwise;

(*b*) date of the grant or title being conferred;

(*c*) nominal area granted;

(*d*) names of the grantor and original grantee;

(*e*) reference to any decree or other order of competent authority declaring or recognizing the grant to be valid;

(*f*) names and addresses of the proprietors and managers of the revenue-free property, with the character and extent of the interest of each proprietor and manager;

(*g*) name of every local division in which any land appertaining to the property is situated, whether in the district or in any other district, with specification under each local division of—

(i) the number of mauzas containing such land,

(ii) the name of each mauza,

(iii) the number which each mauza bears under the local division in the mauzawár register, and

(iv) the area of land appertaining to the revenue-free property which the mauza contains, if ascertained by survey or other authentic measurement, with specification of the number of each field according to the papers of such measurement;

(*h*) reference to the entries in earlier registers relating to the property or any part thereof;

(*i*) reference to entries made in any intermediate register after the preparation of the general register.

Part II of general register of revenue-free lands.

11. In Part II of the general register of revenue-free lands shall be entered all lands which are occupied by the Government, or by any public body, for public purposes, and on account of which no land-revenue is demanded.

It shall contain the following particulars :—

(*a*) area of the land comprised in each entry;

(*b*) names of the local divisions and mauzas in which the lands are situated, with area in each mauza, and a reference to the number under which each mauza is entered in the mauzawár register of the local division;

(*c*) name of the department of Government or of the public body by which the land is occupied;

(*d*) the purpose for which it is occupied;

(*e*) the date and particulars of the appropriation of the land to such purpose;

(*f*) reference to entries in the intermediate register made after the preparation of the general register.

Part III of general register of revenue-free lands.

12. In Part III of the general register of revenue-free lands shall be entered all waste and other lands (not being included in any other part of the general register) which are not assessed to land-revenue.

It shall contain the following particulars :—

(*a*) name and number of the lot, or other particulars identifying the property;

(*b*) area comprised in each entry;

(*c*) name of every local division and mauza in which lands of the property are situated, with area in each mauza, and a reference to the local division and number under which each mauza is entered under the local division on the mauzawár register;

(*d*) reference to entries in the intermediate register made after the preparation of the general register.

Board may direct that three last sections shall not apply to any district.

13. If it shall appear to the Board that the circumstances of any district are such that it is not desirable or practicable to prepare the register of revenue-free lands in the manner described in the three last preceding sections, the Board may direct that the said sections shall not apply to such district, and may lay down rules, not being inconsistent with the provisions of this Act in respect of the registration of revenue-free lands and of the proprietors and managers thereof:

Provided that such rules shall require the registration of the name of one or more persons as liable for the discharge of the duties and obligations referred to in section 68, in respect of all lands which under such rules may be registered as separate revenue-free properties.

Such rules, when they shall have been sanctioned by the Lieutenant-Governor and published in the Calcutta Gazette, and otherwise locally as the

Lieutenant-Governor may order, shall, from such date as the Lieutenant-Governor may direct, have the same force as if they were included in this Act.

Purpose of mauzáwár register.

14. The mauzawár register shall be kept up for the purpose of showing, in a connected form, the mauzas situated in each local division, and the lands, whether revenue-paying or revenue-free, of which each mauza consists.

Mauzáwár register to be arranged according to local divisions.

15. The mauzawár register shall be arranged and divided according to subdivisions, pergunnahs, thánás, police-jurisdictions or such other local divisions of the district as the Board may from time to time direct for each district; the entries of mauzas shall have a separate series of consecutive numbers and a separate alphabetical arrangement for each local division.

The mauzawár register shall contain the following particulars:—

(*a*) name of the mauza;

(*b*) total area of mauza if ascertained by survey or other authentic measurement, with a reference to the authority for the entry;

(*c*) name of every estate or revenue-free property to which any of the lands of the mauza appertain, with a reference to the entry of each on the general register, and a specification of the area of land in the mauza which appertains to each, if ascertained by survey or other authentic measurement, with a reference to the authority for such entry;

(*d*) gross rental of the area of land in the mauza which appertains to each estate or property, if such rental has been ascertained, during management of the lands, by the Collector or by other authentic means, with a reference to the authority for the entry;

(*e*) reference to entries made in intermediate registers after the preparation of the mauzawár register.

Intermediate registers.

16. Intermediate registers shall be kept up for the purpose of recording therein from time to time changes affecting the entries which stand in the general and mauzawár registers, so that by a reference to them, in connection with those registers, correct information up to date on the points recorded may be obtained at any time; also for the purpose of keeping together, as far as possible, in a convenient form, the information which will eventually be required for re-writing the general and mauzawár registers.

Division of intermediate register.

17. The intermediate register shall consist of two parts, as follows:—

Part I.—Book of changes affecting entries relating to revenue-paying lands.

Part II.—Book of changes affecting entries relating to revenue-free lands.

Particulars of Part I of intermediate register

18. In Part I of the intermediate register shall be recorded in a convenient form all changes in the names of proprietors, managers and (so far as this Act requires) mortgagees, and in the character or extent of the interest

of each such proprietor, manager and mortgagee, and such other changes affecting any entry standing in the general register of revenue-paying lands, or any entry in the mauzawár register relating to revenue-paying lands as cannot conveniently be entered against such entry in the general or the mauzawár register.

It shall contain the following particulars :—

(*a*) name of the estate affected with references to the number it bears on the general register of revenue-paying lands, the number it bears on the revenue-roll and the amount of revenue for which it is liable ;

(*b*) references to previous entries in the intermediate register relating to the estate ;

(*c*) particulars of the change, with a reference to the authority under which it is made ;

(*d*) the numbers borne by the entries in each part of the general register of revenue-paying lands, and under each local division in the mauzawár register, which are affected by the change here recorded.

Particulars of Part II of intermediate register.

19. In Part II of the intermediate register shall be recorded all changes in the names of proprietors and managers of revenue-free properties, and in the character and extent of interest of each such proprietor and manager, and such other changes affecting any entry standing in the general register of revenue-free lands, or any entry relating to revenue-free lands in the mauzawár register as cannot conveniently be entered against such entry in the general or the mauzawár register.

It shall contain the following particulars :—

(*a*) name and character of the revenue-free property to which the lands appertain, and number which it bears in any part of the register of revenue-free lands ;

(*b*) reference to previous entries in the intermediate register relating to the property ;

(*c*) particulars of the change, with a reference to the authority under which it is made ;

(*d*) the numbers borne by the entries in the general register and under each local division in the mauzawár register which are affected by the change here recorded.

PART III.

Of the Preparation and Maintenance of the Registers.

Old registers

20. Until the registers by this Act directed to be prepared are so prepared,

to be in force till new registers prepared.

the existing registers now kept up in the office of every Collector shall be deemed to be the registers kept up under this Act, that is to say—

the existing general register of revenue-paying estates shall be deemed to be the general register of revenue-paying lands;

the existing pergunnah-register (Part II) of revenue-free lands shall be deemed to be the general register of revenue-free lands, and the mauzawár register in respect of revenue-free lands;

the existing pergunnah-register (Part I) of revenue-paying lands shall be deemed to be the mauzawár register in respect of revenue-paying lands;

the existing register of intermediate mutations shall be deemed to be the intermediate register of changes affecting entries in the general and mauzawár registers;

and all the provisions of this Act shall, as far as possible, be deemed to be applicable to such registers and to the registration therein of the names and interests of proprietors, managers and mortgagees.

How registers to be prepared.

21. The first general registers and the first mauzawár register under this Act shall be prepared for each district at such time as the Board may direct from the entries in the existing registers mentioned in the last preceding section, and from any other authentic information available to the Collector.

Board may order new registers to be prepared.

22. The Board may order new registers to be prepared whenever it may think fit, and such registers shall be prepared from the registers existing at the time of such order, and from the entries of subsequent changes in the intermediate registers, and from any other authentic information available to the Collector; and such additions to, omissions from and alterations in, the entries as they appeared in the previous registers, shall be made as subsequent changes have rendered necessary, and the authority for every change shall be expressly referred to.

Entry of estate on part of general register.

23. Whenever, after the preparation of the general registers, it may be necessary to bring any estate or revenue-free property on to any part of such registers on which such estate or property is not already borne, such estate or property shall be at once brought on to such part under a new number, in continuation of the last number already borne on such part; and a note referring to such entry shall be made in the place in the general register in which such estate or property would have appeared according to the alphabetical arrangement mentioned in section 5.

Entry of mauza under

24. Whenever, after the preparation of the mauzawár register, it shall be necessary to enter any mauza under any local division of such register under

which it is not already borne, such mauza shall be at once brought under the proper local division with a new number, in continuation of the number borne by the last entry under such local division; and a note referring to such entry shall be made in the place in the mauzawár register in which such estate or property would have appeared according to the alphabetical arrangement mentioned in section 15.

local division of mauzawár register.

25. All new entries made in the general and mauzawár registers after their preparation, as prescribed in the two last preceding sections, shall be made in chronological order.

Order of entries under two preceding sections.

26. After the general register of revenue-paying lands shall have been prepared, a note shall from time to time be made on such register against the estate affected—

Note to be made on general register.

of every alteration which may be ordered by competent authority in the amount of revenue assessed on any estate;

of every partition of an estate into two or more estates;

of every change involving the removal of an estate from the part of the register on which it is borne;

of the redemption of every mortgage in respect of which the name of the mortgagee shall have been entered on the register:

and in every such note reference shall be made to the authority under which the change was made.

In preparing the register space shall be left for the future entry of such notes against each estate.

Any other changes affecting the entries as they stand in the register may be recorded in Part 1 of the intermediate register, as provided in section 18, and a reference shall be made in the general register against the estate affected to every entry which may be made in the intermediate registers recording any such change.

27. After the general register of revenue-free lands shall have been prepared, a note shall from time to time be made on such register against the property affected—

Note on general register of revenue-free lands.

of every case in which lands entered as revenue-free may be declared liable to assessment, and assessed by competent authority;

of every partition of a revenue-free property into two or more properties;

of every change involving the removal of a revenue-free property from the part of the register on which it is borne;

and in every such note reference shall be made to the authority under which the change was made.

In preparing the register space shall be left for the future entry of such notes against each estate.

Any other changes affecting the entries as they stand on the register may be recorded in Part II of the intermediate register as provided in section 19.

Collector, after enquiry, may make change in register.

28. Whenever it shall come to the notice of the Collector that any change has occurred which affects any entry in his registers, and renders necessary any alteration therein, the Collector, after making such enquiry as may be necessary, shall make such alteration:

Provided that notice shall be given to the recorded proprietors and managers of any estate or revenue-free property before any change is made in any way affecting such estate or property, and to every person whose name the Collector is about to register as proprietor or manager of any estate or revenue-free property, before such registration is effected; and any objections which may be made to the proposed change or registration shall be duly considered by the Collector before he orders such change or registration to be made.

When Collector may order name of proprietor to be struck out of register.

29. Whenever it shall appear to the Collector, in the course of an enquiry made in respect of an application under section 38 or section 42, or otherwise, that any person whose name is recorded in the general register as proprietor or manager, or joint proprietor or joint manager, of an estate or revenue-free property, is no longer in possession of any interest in such estate or property as proprietor or manager, and that the names of other persons have been recorded as proprietors or managers of every portion of the interest in respect of which such proprietor's or manager's name was borne on the register, the Collector may order the name of such person to be struck out from among the recorded proprietors or managers of such estate or property, and, if required, may grant him a certificate to that effect.

Information to be supplied to Collector.

30. To enable the Collector more effectually to maintain his registers,—

(*a*) whenever any competent authority may direct that any estate be transferred from the revenue-roll of one district to that of another, the Collector of the district from the revenue-roll of which the estate is to be transferred shall transmit, to the Collector of the district to the revenue-roll of which the transfer is to be made, a copy of all entries in any of the registers relating to the estate to be so transferred, and entries taken from such copy shall be made in the proper registers of the district to which the transfer is made.

(*b*) Whenever the Collector of any district shall make an entry, or any alteration of an entry, in his registers, which will affect any entry required to

be made under this Act in any register of another district, such Collector shall transmit to the Collector of such other district copy of such entry as made or as altered, and the Collector to whom such copy is transmitted shall cause the necessary entries, or alteration of entries, to be made in the registers of his district.

(*c*) Every proprietor and manager of an estate or revenue-free property in which any new village may be established, whether under the name of tola, kismat or any other designation, shall forthwith give notice to the Collector of the establishment of such new village:

Provided that the Board may exempt any district or part of a district from the operation of this clause.

(*d*) Every proprietor and manager of an estate or revenue-free property, and any person holding any interest in land, or employed in the management of land, shall be bound, on the requisition of the Collector, to furnish any information required by the Collector for the purpose of preparing, making or correcting any entry of the particulars specified in sections 7, 8, 10, 11, 12 or 15, or to show to the satisfaction of the Collector that it is not in his power to furnish the required information.

Such requisition shall be made by a notice to be served in the manner prescribed by section 50, requiring the production of such information before a date mentioned in such notice.

Penalties for not giving notice or furnishing information.

31. Whoever, being bound by clause (*c*) of the last preceding section to give notice to the Collector of the establishment of any new village, or under clause (*d*) of the said section to furnish any information required by the Collector, shall voluntarily or negligently omit to give such notice or furnish such information, or to show to the satisfaction of the Collector that it is not in his power to furnish such information, shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees, for such omission, and the Collector may impose such further daily fine as he may think proper, not exceeding fifty rupees, for each day during which such person shall omit to furnish the information required under clause (*d*) after a date to be fixed by the Collector in a notice warning the person required to furnish such information that such further daily fine will be imposed.

Such notice shall be served in the manner prescribed by section 50, and the date fixed by such notice shall not be less than fifteen days after service thereof.

The Collector may proceed from time to time to levy any amount which

has become due in respect of any fine imposed under this section, notwithstanding that an appeal against the order imposing such fine may be pending:

Provided that, whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the division, and no further levy in respect of such fine shall be made otherwise than by authority of the said Commissioner.

When register may be altered on order of Civil Court.

32. Whenever any Civil Court makes a decree confirming any transfer of proprietary possession which has already been made in any estate or revenue-free property, or gives effect to any decree transferring any such possession, such Court may order the transfer to be registered in the registers of the Collector, and the Collector shall register such transfer accordingly.

Lands held without payment of rent deemed to be part of certain estates.

33. All lands which are held without payment of rent, not being a revenue-free property entered in the general register of revenue-free lands as prescribed by sections 10, 11 or 12, and not being a part of any such property, shall, for the purposes of this Act, be deemed to be a part of the estate within the local boundaries of which they are included; and if they are not included within the local boundaries of any one estate, then to be a part of such neighbouring estate as the Collector shall, by an order under his seal and signature, declare.

Collector may include any lands in an estate.

34. Whenever it shall appear to the Collector that any lands which are not included in any estate as entered in the existing general register should be included in any such estate for the purposes of this Act, the Collector shall cause a notice, addressed to the person who is believed to be in possession of such lands, to be served in the manner prescribed by section 50, and a general notice to be published as prescribed by section 49, to the effect that such lands will be so included if no objection be made within one month of the service of the said notice, or such longer period as the Collector may think fit to allow.

After the expiration of the said month or other period, the Collector shall proceed to enquire into any objections which may have been made, and to pass such order as he may think fit in respect to the inclusion of the said lands in the said estate for the purposes of this Act.

Collector may register lands as a revenue-free estate and call on proprietor to apply for registration.

35. Whenever it shall appear to the Collector that any land which is not entered on the general register as a separate revenue-free property should be entered on the register as such property, he may cause a notice to be served in the manner prescribed by section 50, calling on the person in possession of such land as proprietor or manager to show cause why such land should not

be so registered as a revenue-free property; and, if after hearing any objections (which may be preferred within a month of the service of the said notice, or such longer period as the Collector may think fit to allow), and after making such further enquiry as may be necessary, the Collector shall be of opinion that the land should be so registered, he shall enter such land on the general register as a revenue-free property, and by a notice served as prescribed in section 50, as well as by a general notice published as prescribed in section 49, shall require every proprietor and manager of such revenue-free property to apply for registration of his name and of the character and extent of his interest as such proprietor or manager, and thereupon every such proprietor and manager shall be deemed, for the purposes of section 68, to be a person who is required by this Act to apply for the registration of his name; and all the provisions of Part IV of this Act, so far as may be practicable, shall apply to every such person:

Provided that no such proprietor or manager shall be liable to any fine under section 65 until after the expiration of three months from the date on which the last-mentioned notice shall have been served:

Provided also that no land shall be entered as a revenue-free property in Part I of the general register of revenue-free lands until the circumstances of the case shall have been reported to the Board, and until the Board shall have sanctioned such entry.

Board to decide what lands to be included in each revenue-free property.

36. The Board may decide what revenue-free lands shall be included in each revenue-free property to be registered as such under this Act, and may from time to time direct that lands which are borne on the register as forming one revenue-free property shall be divided and entered on the register as forming two or more such properties; and may similarly direct that revenue-free lands which are borne on the register as forming two or more revenue-free properties shall be united and entered as forming one revenue-free property.

The Board may also direct that any lands which are improperly borne upon the general register of revenue-free lands shall be removed from such register, or shall be omitted from any new register of such lands which may be prepared.

Collector may serve notice for inclusion of lands in revenue-free property.

37. Whenever it shall appear to the Collector that any land which is not included in any revenue-free property entered in the existing general register should be included in any such property for the purposes of this Act, the Collector may cause a notice to be served on the person believed to be in possession of such lands in the manner prescribed by section 50, and a general notice to be published as prescribed by section 49, to the effect that such lands

will be so included if no objection be made within one month of the service of the said notice, or such longer period as the Collector may allow.

At the expiration of the said month or of such period, the Collector shall proceed to enquire into any objections which may have been made, and to pass such order as he may think fit in respect to the inclusion of the said lands in the said property for the purposes of this Act.

PART IV.

Of the Registration and Mutation of Names.

Proprietor and manager to register within specified time.

38. Every proprietor of an estate or revenue-free property, or of any interest therein, respectively, being in possession of such estate, property or interest, at the commencement of this Act,[a]

every joint proprietor of an estate or revenue-free property being in charge of such estate or property, or of any interest therein, respectively, on behalf of the other proprietors thereof, at the commencement of this Act,

and every person being manager of an estate or revenue-free property, or of any interest therein, respectively, on behalf of a proprietor thereof, at the commencement of this Act,[a]

shall, if his name and the character and extent of his interest have not already been registered, make application in the manner hereinafter provided for the registration of his name and of the character and extent of his interest as such proprietor or manager, to the Collector of the district on the general register of which such estate or property is borne, or to any other officer who may have been empowered by the Collector to receive such application, within such time as the Lieutenant-Governor may fix as hereinafter provided.

Lieutenant-Governor to fix date before which proprietor and manager must apply for registration.

39. The Lieutenant-Governor shall, within six months from the commencement of this Act,[a] fix for each district the date or dates before which such proprietors and managers, being in possession of estates or revenue-free properties, or of any interest therein, respectively, at the commencement of this Act,[a] shall be required to apply for registration of their names, and of the character and extent of their interests, under the last preceding section, and may at any time alter any date so fixed:

Provided that no date so fixed shall be later than five years after the said commencement.

Lieutenant-Governor may fix different

40. The Lieutenant-Governor may in any district, for the purposes of the last preceding section, fix different dates in respect of estates and revenue-free

[a] *i.e.*, the 23rd August, 1876.

properties, or in respect of different classes of estates and revenue-free properties, or in respect of different portions of the district:

dates in respect of different estates.

Provided that no person shall incur any penalty or disability under this Act for failure to apply for registration of his name as such proprietor or manager as aforesaid, until after the lapse of six months from the date on which the notice prescribed by the next succeeding section shall have been published in respect of his estate or property, or in respect of the class of estates or revenue-free properties within which his estate or property falls or in respect of the portion of the district in which his estate or revenue-free property is situated.

Publication of date fixed by Lieutenant-Governor.

41. Every date fixed by the Lieutenant-Governor as provided in the two last preceding sections shall be published by a notice in the Calcutta Gazette;

and also by notices to be posted up—

at the Court or office of the Judge, the Magistrate and the Collector of the district, in respect of which such date is fixed;

at the Court or office of every Munsif, Subdivisional Officer and Sub-Registrar of Assurances in such district;

and at every police-station in such district;

and by proclamation to be made by beat of drum at the head-quarters of such district, and in every place in which a subdivisional office is situated, and in such other places as the Lieutenant-Governor may direct.

The officer in charge of every Court, office and police-station at which a notice is required to be posted up under this section shall certify to the Collector the date on which the notice was so posted up at his Court, office or police-station, and the latest date so certified shall be deemed to be the date of publication of the notice for the purposes of the two last preceding sections.

Persons succeeding to proprietary right in, or management of, estates to give information within six months.

42. Every person succeeding, after the commencement of this Act,[a] to any proprietary right in any estate or revenue-free property, whether by purchase, inheritance, gift or otherwise;

every joint proprietor of an estate or revenue-free property, assuming charge after such commencement of such estate or property, or of any interest therein respectively, on behalf of the other proprietors thereof;

and every person assuming charge after such commencement of any estate or revenue-free property, or of any interest therein respectively as manager,

shall, within six months from the date of such succession or assumption of charge, make application in the manner hereinafter provided to the Collector

[a] *i.e.*, the 23rd August, 1876.

of the district on the general register of which such estate or property is borne, or to any other officer who may have been empowered by such Collector to receive such applications, for registration of his name and of the character and extent of his interest as such proprietor or manager.

Lieutenant-Governor may exempt proprietors from obligations imposed by Act.

43. Notwithstanding anything contained in section 38 or the last preceding section, the Lieutenant-Governor may in any district exempt proprietors and managers of all or any estates which are liable to pay less than twenty rupees of land-revenue annually, and proprietors and managers of all or any revenue-free properties which consist of less than fifty acres of land, from the obligations imposed by this Act in respect of applying for registration of their names, and may at any future time withdraw such exemption and require such proprietors and managers to register their names.

Mortgagee may apply for registration.

44. Every person who holds a mortgage of any proprietary right in any estate may apply to the Collector for registration of his name as such mortgagee, and of the interest in respect of which he is such mortgagee; and in such application shall specify whether he or the mortgagor is in possession.

On receipt of such application the Collector shall proceed, as far as possible, according to the manner hereinafter prescribed in respect of applications for registration as proprietor.

Presentation of application

45. Any application for registration under this Act may be presented by the applicant or by some person duly authorized by him in that behalf.

Manager to specify extent of interest of each person for whom he manages.

46. If the applicant under section 38 or section 42 is a joint proprietor in charge as aforesaid, or a manager, he shall in his application specify the name of the person or persons on behalf of whom he is in such charge or on behalf of whom he is manager, and the character and extent of the interest of every such person.

Collector when to register applicant for registration as manager appointed by authority.

47. If the application under section 38 or section 42 be for registration of the name of the applicant as manager appointed by the Collector, the Court of Wards,[a] or by any Civil or Criminal Court, the Collector shall register the name of the applicant, on proof being produced to his satisfaction that the applicant has been so appointed to be such manager.

Notice to objectors.

48. If the application be for registration otherwise than as manager appointed as mentioned in the last preceding section, and if it sets forth circumstances which would justify the Collector in registering the name of the person whose name is required to be registered, or if after further enquiry the Collector considers that such circumstances exist, he shall issue a notice requiring all persons who object to the registration of the name of the person whose name is required to be registered, or who dispute the character or extent of the

[a] For power of Court of Wards to appoint a manager, see Ben. Act IX of 1879, s. 30, *infra*.

interest in respect of which it is required to be registered, to give in a written statement of their objections, and to appear on a day to be specified in such notice, not being less than one month from the date of the publication thereof.

Publication of notice.

49. Such notice shall be published by affixing a copy of the same on or at all the following places :—

(*a*) the zamindári kachahri (if any) of the estate or other place at which the rents are ordinarily received ;

(*b*) some conspicuous place in at least one village appertaining to the estate to which the application relates, and if the estate comprises lands situated in more than one local division, then in at least one village in each local division containing such lands ;

(*c*) the office or Court of every Collector, Subdivisional Officer, Judge and Munsif within whose jurisdiction, and every police-station within the jurisdiction of which, any of the lands to which the application relates are known to be situated.

Notice to transferor.

50. If the application alleges that the applicant has acquired possession of the interest in respect of which he applies to be registered by transfer from any living person, a copy of such notice shall be served on the alleged transferor by tendering to the person to whom it may be directed a copy thereof attested by the Collector, or by delivering such copy at the usual place of abode of such person, or to some adult male member of his family ; or, in case it cannot be so served, by posting such copy upon some conspicuous part of the usual or last known place of abode of such person.

In case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such way as the Collector issuing such notice may direct.

No fees or other costs shall be payable by the applicant in respect of the service or publication of the notice prescribed by this and the last preceding section.

Effect of irregularity in publication or service of notice.

51. No irregularity or omission in the publication or service of notice as required by the three last preceding sections shall affect the validity of any proceedings under this Act, unless it is proved to the satisfaction of the Collector that some material injury was caused by such irregularity or omission.

Enquiry by Collector.

52. On the day fixed in the notice issued under section 48, or as soon thereafter as possible, the Collector shall consider any objections which may be advanced, and make such further enquiry as appears necessary to ascertain the truth of the alleged possession of, succession to or transfer of, the estate, revenue-free property or interest therein, in respect of which registration is applied for ; and if it appears to the Collector that the possession exists,

or that the succession or transfer has taken place, and that the applicant has acquired possession in accordance with such succession or transfer,

but not otherwise,

the Collector shall order the name of the applicant to be registered in the proper registers as proprietor or manager of the said estate, revenue-free property or interest therein :

Provided that any person to whom any proprietary right in an estate has been mortgaged may be registered as mortgagee, whether he be in actual possession or otherwise.

Power to summon witnesses and compel production of documents.

53. For the purpose of the enquiry mentioned in the last preceding section, and of every enquiry held under this Act, the Collector may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents, by the same means, and as far as possible in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure.[a] XIV of 1882.

Payment of costs.

54. All costs of any enquiry or proceeding held before the Collector under this Act shall, except as provided in section 50, be payable by the parties concerned, and the Collector may pass such orders as he shall think fit in respect of the payment of such costs.

Dispute as to possession, succession or acquisition by transfer.

55.[b] If the applicant's possession of, succession to or acquisition by transfer of, the extent of interest in respect of which he has applied to be registered is disputed by or on behalf of any person making a conflicting claim in respect thereof, and if it is not proved to the satisfaction of the Collector that any person is in possession of the interest in dispute, the Collector shall determine summarily the right to possession of the same, and shall deliver possession accordingly, and shall make the necessary entry in the registers ;[b]

or if, in the opinion of the Collector, the dispute be one which can more properly be determined by a Civil Court, the Collector shall refer the matter in dispute to the principal Civil Court of the district for determination as hereinafter provided :

Provided that if the applicant's possession of any extent of interest in accordance with his application be not disputed, or if such possession be proved to the satisfaction of the Collector, the Collector may register the said applicant's name in respect of such extent of interest, and may at the same time make a reference as hereinafter provided to the Civil Court for determination of any dispute as to any further extent of interest in respect of which the

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[a] See Act XIV of 1882, s. 3, and Chap. XIV, in General Acts, 1882--84, pp. 32, 73.

[b-b] This clause of s 55 has been substituted for the original clause by Ben. Act V of 1878—see Ben. Act V of 1878, s. 1, *infra*.

applicant has applied to be registered, but in respect of which the right of the applicant to be registered is disputed, and is not proved to the satisfaction of the Collector.

In cases of disputed possession, &c., Collector may appoint receiver.

56. In any case of disputed possession of, succession to or acquisition by transfer of, the extent of any interest in respect of which application is made under the last preceding section, the Collector may appoint a receiver to collect the rents of the extent of interest in dispute, and from the sums so collected shall be paid the expenses of management and the revenue due to the Government; and the surplus shall be held in deposit in the Collector's treasury, and shall be paid over to the person who shall be registered by the Collector, or under the order of a Civil Court, in respect of the extent of interest in dispute.

Effect of Collector's order.

57. Every order of a Collector passed under the first clause of section 55 shall be of the same force and effect as an order passed by the Judge under section 4 of Act XIX of 1841[a] (*an Act for the protection of moveable and immoveable property against wrongful possession in cases of succession*), determining summarily the right to possession and delivering possession accordingly;

and no proceedings shall be taken by any Civil Court under the said Act in respect of any claim or dispute which has been determined by an order of the Collector as aforesaid.

Procedure on reference under section 55.

58. In making a reference to the Civil Court under section 55 the Collector shall state for the information of the said Court in writing under his hand—

(1) the name of the estate or revenue-free property to which the reference applies, together with the numbers which it bears on the general register and (if an estate) on the revenue-roll of the district;

(2) the names of all the persons who now stand registered on the general register as proprietors, managers or mortgagees of such estate or property, with the character and extent of the interest in respect of which each stands registered;

(3) the name of the applicant for registry;

(4) the character and extent of the interest in dispute;

(5) the circumstances of the case as far as they are before the Collector, and the reasons which have led him to make the reference.

Procedure on receipt of reference.

59. On receipt of such reference the said principal Civil Court of the district may either proceed to determine the matter, or may transfer the matter for determination to any other competent Civil Court in the district.

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[a] See General Acts, 1834—66, 2nd Ed., p. 34.

The said principal Civil Court, or the Court to which the matter is transferred, shall cite the parties concerned, and give notice of the time at which the matter will be heard; and, after expiration of the time so fixed, shall determine summarily the right to possession in respect of the interest in dispute (subject to regular suit), and shall deliver possession accordingly.

Judge may appoint curator.

60. If it shall appear to the Judge of the Court by which the matter is heard that danger is to be apprehended of the misappropriation or waste of the property before the summary suit can be determined, such Judge may appoint curators for the care of the property, and may exercise all or any of the powers mentioned in sections 5 to 13 (both inclusive) of Act XIX of 1841.*

Costs.

61. The said Court may make such order as it shall think fit with regard to the payment by the parties of the cost of the enquiry and proceedings:

Provided that no costs shall be recoverable from the parties on account of the issue of notices citing the parties and fixing a date for the first hearing of the case.

Effect of summary decision of Court.

62. The summary decision of the Court under section 59 shall have no other effect than that of settling the actual possession; but for this purpose it shall be final, not subject to any appeal or order for review.

Court to certify its determination to Collector.

63. The Court shall certify to the Collector its determination as to the right of possession, and the Collector shall thereupon make the necessary entries in the proper registers.

Collector to levy fees on transfers.

64. Fees at the following rates shall be levied by the Collector on the registry under this Act of any transfer—

(1) in the case of revenue-paying lands, one quarter or four annas per centum on the annual revenue payable to Government from the extent of interest transferred;

(2) in the case of revenue-free lands, two and a half per centum on the amount of the annual produce of the extent of interest transferred, such annual produce being the amount of the rents received and receivable on account of the year preceding the year in which the transfer may be registered:

Provided that no fee for the registry of any one transfer shall exceed one hundred rupees.

Such fees shall be levied from the person in whose favour the transfer is registered.

All fees levied under this section shall be carried to the account of Government.

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* See General Acts, 1834—66, 2nd Ed., pp. 35, 36.

Penalty for omitting to comply with Act.

65. Whoever, being required by this Act to apply for the registration of his name and the extent of his interest in any estate or revenue-free property, voluntarily or negligently omits to make such application within the prescribed time, shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees for such omission, and to such further daily fine as the Collector may think fit to impose, not exceeding fifty rupees, for each day during which such person shall omit to apply for such registration after a date to be fixed by the Collector in a notice requiring such person to apply for registration.

Such notice shall be served in the manner prescribed in section 50, and the date before which such person is required to apply for registration shall not be less than one month after service of such notice.

Fine may be levied notwithstanding appeal.

66. The Collector may proceed from time to time to levy any amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending:

Provided that, whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the division, and no further levy in respect of such fine shall be made otherwise than by authority of the said Commissioner.

No penalty on person who applies *suo motu*.

67. Notwithstanding anything contained in section 65, no fine shall be imposed by the Collector under the said section on any person on the ground that such person has failed to make application for registration of his name within the time fixed by the Lieutenant-Governor under section 39 or 40,

or on the ground that such person has failed to apply for registration of his name within the time prescribed by section 42,

if such person shall, at any time after the expiration of the time fixed or prescribed as aforesaid, of his own motion, and otherwise than after the issue of a requisition by the Collector in that behalf, present such application as is required by this Act for the registration of his name, and of the character and extent of his interest.

Liabilities of proprietors and managers.

68. Save as is provided in section 45 of the Code of Criminal Procedure, 1882,[a] all the recorded proprietors and managers of an estate or revenue-free property shall be deemed to be jointly and severally liable for the discharge of any duties and obligations which are by any law for the time being in force imposed upon the proprietors of such estate or property;

1882.

and all persons who are required by this Act to apply for registration shall, from the date on which the obligation so to register is imposed on them

[a] See Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

respectively by this Act, be deemed to be liable for the discharge of any duties and obligations which are by any such law as aforesaid imposed upon the proprietors of the estate or property in respect of which they are required to apply for registration respectively.

PART V.

Of the Opening of separate Accounts in respect of Shares.

Opening of separate account of share of applicant under Act XI, 1859.

69. Notwithstanding anything contained in Act XI of 1859[a] (*an Act to improve the law relating to sales of land, &c.*), from the commencement of this Act[b] no separate account shall be opened under the provisions of section 10 or of section 11 of the said Act in respect of the share of any applicant under the said sections otherwise than for a share corresponding with the character and extent of interest in the estate in respect of which such applicant is recorded as proprietor or manager under this Act.

Proprietor holding undivided interest in specific lands may apply for separate account.

70. When a proprietor of a joint estate, who is recorded as proprietor of an undivided interest held in common tenancy in any specific portion of the land of the estate, but not extending over the whole estate, desires to pay separately the share of the Government revenue which is due in respect of such interest, he may submit to the Collector a written application to that effect.

The application must contain a specification of the land in which he holds such undivided interest, and of the boundaries and extent thereof, together with a statement of the amount of Government revenue heretofore paid on account of such undivided interest.

On the receipt of this application the Collector shall cause it to be published in the manner prescribed for publication of notice in section 10 of Act XI of 1859.[a]

In the event of no objection being urged by any recorded co-sharer within six weeks from the time of publication, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it.

The date on which the Collector records his sanction to the opening of a separate account shall be held to be that from which the separate liabilities of the share of the applicant commence.

Sections 12, 13 and 14 of Act XI of 1859 applied.

71. Section 12 of the said Act XI of 1859[a] shall apply to every application made under the last preceding section; and the effect and consequences of

[a] For Act XI of 1859, see Vol I, p. 360. [b] *i.e.*, the 23rd August, 1876.

opening a separate account under the last preceding section shall be such and the same as are described in section 13 and in section 14 of Act XI of 1859.[a]

Application to close separate account.

72. Whenever any share in respect of which a separate account has been opened by the Collector under section 10 or section 11 of the said Act XI of 1859,[a] or under section 70, shall no longer correspond with the character and extent of interest held in the estate by any one proprietor or manager, or jointly by two or more proprietors or managers, any proprietor or manager whose name is borne on the general register under this Act as proprietor or manager of any interest in the share in respect of which such separate account is open may submit to the Collector a written application setting out the circumstances under which such share no longer corresponds with the extent of interest held in the estate by any recorded proprietor or manager, or jointly by two or more recorded proprietors or managers, and specifying the manner in which such share has become broken up and distributed among the proprietors of the estate, and praying that the separate account standing open in respect of such share shall be closed, and, if he so desire, praying that another separate account be opened in respect of any other share or shares which were wholly or partly included in the share in respect of which the previous separate account was open.

Illustration.

In a certain estate separate accounts have been opened under section 10 of Act XI of 1859 for the 4 annas share of A, and also for the 5 annas share of B, the accounts of the remaining 7 annas share being kept jointly in the names of the remaining proprietors C, D and E.

In course of time X has inherited A's 4 annas share, and also C's interest in the 7 annas share, which amounted to 3 annas; X has also acquired by purchase 2 annas out of B's 5 annas share, so that the interests in the estate are now distributed as follows:—

X	9 annas.
B	3 „
D & E	4 „

X, if a recorded proprietor of the estate, may apply to the Collector to close the separate account which is open in respect of A's 4 annas share, and also the separate account which is open in respect of B's 5 annas share, as neither of these shares corresponds with the extent of interest held by any one proprietor, or held jointly by two or more proprietors in the estate;

and in the same application X may apply for the opening of a separate account in respect of the 9 annas share which he now holds.

Any of the other proprietors might also make a similar application.

Separate

73. On receipt of such application the Collector shall cause a copy of the

[a] For Act XI of 1859, see Vol. I, p. 380.

account may be closed and another opened.

same to be published in the manner provided in section 10 of Act XI of 1859;[a] and, if within six weeks from the date of such publication no objection is made by any other recorded proprietor of the estate, the Collector shall close the separate account which then stands open, and shall open a separate account with the applicant as required by him, under section 10, or section 11 of Act XI of 1859,[a] or under section 70, as the case may be.

Procedure in case of objection.

74. If any recorded proprietor of the estate, whether the same be held in common tenancy or otherwise, object that the share in respect of which any separate account is open as aforesaid has not been broken up, and does still correspond with the character and extent of interest held by any one proprietor or manager, or jointly by two or more proprietors or managers,

or object that the applicant has no right to the share claimed by him, or that his interest in the estate is less or other than that claimed by him,

or (when the application is in respect of a specific portion of the land of an estate, or in respect of an undivided interest held in common tenancy in any specific portion of the land of the estate), object that the amount of Government revenue stated by the applicant to have been heretofore paid on account of such portion of land, or on account of the applicant's undivided interest therein, is not the amount which has been recognised by the other sharers as the Government revenue thereof,

the Collector shall refer the parties to the Civil Court, and shall suspend proceedings until the question at issue is judicially determined.

PART VI.

MISCELLANEOUS.

Collector to furnish extract from register.

75. The Collector shall supply an extract from any register mentioned in this Act to any person who may apply for the same, subject to the payment of such fees for searching and copying as may be prescribed by the Board.

Collector to furnish translation of extract.

76. If in any district any register prescribed by this Act has not been prepared and kept up in the vernacular language and character of the district, the Collector shall be bound, together with any English extract which may be furnished under the last preceding section, to furnish a translation of the same in the vernacular language and written in the vernacular character of such district to any one who may demand such translation, and no further charge shall be made in respect of the furnishing of such translation than

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[a] For Act XI of 1859, see Vol. I, p. 380.

might have been charged in respect of the English extract furnished under the said section.

77. Whenever any change shall be made by order of competent authority in the names of the recorded proprietors or managers of any estate or revenue-free property, or in the character or extent of the interest of any such proprietor or manager as entered in any register mentioned in this Act, so soon as the order under which such change in the entry may have been made shall have been confirmed on appeal, or so soon as the period for presenting an appeal against such order shall have expired without the presentation of an appeal, the Collector shall cause a notice of such change to be posted up at his office, at the office of every Subdivisional Officer within whose jurisdiction any lands of the estate or revenue-free property concerned are situated, and at such places as he may think fit on the estate or property; and every such notice shall set out the name of every proprietor and manager of the estate or revenue-free property concerned, and the character and extent of the interest of every such proprietor and manager as it stands recorded on the general register on the date of the issue of the notice.

Changes in names of proprietors, &c., and extent of interest to be notified on estate.

78. No person shall be bound to pay rent to any person claiming such rent as proprietor or manager of an estate or revenue-free property in respect of which he is required by this Act to cause his name to be registered, or as mortgagee, unless the name of such claimant shall have been registered under this Act;

No person bound to pay rent to claimant not registered.

and no person being liable to pay rent to two or more such proprietors, managers or mortgagees holding in common tenancy, shall be bound to pay to any one such proprietor, manager or mortgagee more than the amount which bears the same proportion to the whole of such rent as the extent of the interest in respect of which such proprietor, manager or mortgagee is registered bears to the entire estate or revenue-free property.

Payment to each of several proprietors, &c., holding in common tenancy.

79. The receipt of any proprietor, manager or mortgagee, whose name and the extent of whose interest is registered under this Act, shall afford full indemnity to any person paying rent to such proprietor, manager or mortgagee.

Indemnity to persons paying rent to registered proprietor.

80. Whenever any sum of money shall be payable by the Collector to the proprietors of any estate or revenue-free property jointly (otherwise than under the Land Acquisition Act, 1870),[a] the Collector may pay to any one or more recorded proprietors or managers thereof respectively such portion of the said sum as may be proportionate to the extent of the interest in respect of

X of 1870.

Payment of sums payable by Collector to proprietors jointly.

[a] See General Acts, 1867—76, 2nd Ed., p. 177.

which each such proprietor or manager is registered, and the receipt of each such proprietor or manager shall afford full indemnity to the Collector in respect of any sum so paid.

Saving of written contracts and recovery from person receiving money.

81. Nothing contained in the three last preceding sections shall be held to interfere with the conditions of any written contract, or to prevent any person deeming himself entitled to any sum of money from recovering such sum by due process of law from any other person who has received the same.

Every amount due deemed to be a demand.

82. Every amount which may become due to the Collector under the provisions of this Act in respect of any expenses incurred, of any fees payable, of any notices served, of any costs payable by any party, or of any fines imposed, shall be deemed to be a demand.[a]

Collector may require proprietor to name estate.

83. The Collector may by a notice require the proprietor or manager of any estate or revenue-free property to name such estate or property by a distinctive name, and, in case of failure of such proprietor or manager to comply with the requisition within the time fixed by the Collector, may name such estate or property.

Collector may delegate duties.

84. The Collector may, by a special or a general order, delegate to any Assistant Collector, Deputy Collector or Sub-Deputy Collector the performance of any duty, and the exercise of any function, which the Collector is required or empowered to perform or exercise under this Act, except in respect of appeals;

and any Assistant, Deputy or Sub-Deputy Collector to whom any duty or function is so delegated may exercise all the powers of a Collector under this Act, except in respect of appeals.

Appeal.

85. Every order passed under this Act by any Revenue-officer below the rank of the Collector of the district (not being an officer specially vested with appellate powers as hereinafter mentioned) shall be appealable to the Collector of the district, or to any officer who may have been specially vested by the Government with special appellate powers in this behalf;

and there shall be no further appeal from any order so passed in appeal confirming the order appealed against;

but an appeal shall lie to the Commissioner of the division against every order so passed in appeal which modifies or reverses the order appealed against.

Every order passed by the Collector of the district, or by any officer specially vested with appellate powers as aforesaid, being passed otherwise than on appeal from the order of another officer, shall be appealable to the Commissioner of the division.

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[a] The rest of s. 82, repealed by Ben. Act VII of 1880, s. 3, has here been omitted. As to recovery of demands under s. 82, see ss. 7 (*3*) and 8 of that Act, *infra*.

Every appeal to the Collector shall be presented within fifteen days of the date of the order appealed against;

and every appeal to the Commissioner shall be presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days of the order appealed against;

and every appeal presented after the lapse of the time fixed by this section may be summarily rejected, unless sufficient cause shall be shown to the satisfaction of the appellate authority for admitting the appeal after the lapse of such time.

Every order passed by any officer subordinate to a Commissioner shall be subject at any time to revision and modification by such Commissioner;

and every order passed by any such officer or by such Commissioner shall be subject at any time to revision and modification by the Board.

Exclusion of time in case of appeals.

86. In computing the period of limitation prescribed for an appeal, the day on which the order complained of was made, and the time requisite for obtaining a copy of the same, shall be excluded.

Lieutenant-Governor may vest officer with special appellate powers.

87. The Lieutenant-Governor may from time to time vest any officer other than the Collector of the district with special appellate powers under this Act; and every officer so vested shall be competent to hear and decide any appeal which the Collector of the district is competent to hear and decide under this Act.

Board may make certain rules.

88. Within four months of the date* on which this Act comes into force, the Board shall make general rules consistent with this Act to regulate—

the form in which registers under this Act are to be kept;

the procedure as to the presentation, admission and verification of applications for registration under Part IV, and as to enquiries under section 52,

and generally for the purposes of this Act.

The Board may from time to time cancel or alter any such rules.

Saving clause.

89. Nothing contained in this Act, and nothing done in accordance with this Act, shall be deemed to—

(*a*) preclude any person from bringing a regular suit for possession of, or for a declaration of right to, any immoveable property to which he may deem himself entitled;

(*b*) render the entry of any land in the registers under this Act as revenue-free an admission on the part of Government of the right of the person in whose name such land may be entered, or an admission of the validity of the title under which the said land is held revenue-free;

* i.e., the 23rd August, 1876.

(*c*) affect the rights of the Government or of any person in respect of any immoveable property or of any interest, except as otherwise expressly provided herein.

SCHEDULE OF REGULATIONS REPEALED.

(*See section 2.*)

Number and year.	Subject or abbreviated title.	Extent of repeal.
XIX of 1793 .	Non-bádsháhi lákhiráj grants	Sections 21, 22, 29 to 34; sections 36 to 41; so much of sections 42 and 43 as have not been repealed; sections 44 to 46, all inclusive.
XXXVII of 1793 .	Bádsháhí lákhiráj grants .	Sections 16 to 18, 24, 26 to 29, 31 to 33, 35, 36, so much of section 37 as has not been repealed, section 38, so much of section 39 as has not been repealed, sections 40 to 41, all inclusive.
XLVIII of 1793 .	A Regulation for forming a quinquennial register, &c.	So much as has not been repealed.
LVIII of 1795 .	Granting to the Collectors a commission on the jama of certain lands.	So much as has not been repealed.
XV of 1797 .	Levying fees, &c. . .	The whole.
VIII of 1800 .	Pergunnah-register . .	So much as has not been repealed, except section 19.

ACT No. VIII OF 1876.[a]

Received the Lieutenant-Governor's assent on the 26th August, 1876, and the Governor General's assent on the 18th September, 1876.

An Act to make better provision for the Partition of Estates.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the partition of estates; It is enacted as follows:—

PART I.

PRELIMINARY.

Short title. 1. This Act may be called the Estates' Partition Act, 1876:

[a] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1876, s. 3, as amended by Reg. III of 1886, s. 2; also in the Districts of Hazaribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan, under s. 3 of the Scheduled Districts Act, 1874—see Vol. I, p. 678.

It extends to the territories for the time being under the administration of the Lieutenant-Governor of Bengal; Local extent.

And it shall come into force from the date[a] on which it may be published in the Calcutta Gazette with the assent of the Governor General, which date is hereinafter referred to as the commencement of this Act. Commencement.

2. On the commencement of this Act,[a] the Regulations and Acts specified in the schedule hereto annexed, to the extent mentioned in the third column thereof, shall cease to have effect in the territories subject to the Lieutenant-Governor of Bengal, save so far as they repeal or modify any other Regulations or Acts, and save so far as regards the partition of any estate which shall be pending at the time of the said commencement. Laws repealed.

The partition of any estate which shall be pending at the time of the commencement of this Act[a] shall (except as provided in the next succeeding section) proceed and be completed in the same manner as if this Act had not been passed.

3. The provisions of this Act, so far as they relate to the continuation of a partition from the point which it has reached, or to the staying of the partition of an estate, or to striking a partition-case off the file, may be applied, at the discretion of the Collector, in all cases of partition of estates pending at the time of the commencement of this Act:[a] Provisions applicable to partition-cases pending at time of commencement.

Provided that, before applying such provisions to the continuation of a partition, the Collector give due notice in each case to the parties concerned that such provisions will be applied.

4. In this Act, unless there be something repugnant in the subject or context,— Interpretation-clause.

(i) "amin" means a person who is appointed by the Collector or Deputy Collector to make any measurement, survey or local inquiry, or to prepare the papers showing the result of any measurement, survey or local inquiry: "Amin."

(ii) "applicant" means any person who has applied to the Collector under the provisions of this Act for the separation from the parent estate of lands representing his interest in such parent estate, and for the assignment to him of such lands as a separate estate liable for a demand of land-revenue distinct from that for which the parent estate is liable: "Applicant."

(iii) "assets of land" include the rental of the land with respect to which the expression is used, and all profits derived by the proprietors out of such land from rights of pasturage, forest-rights, fisheries and all other legal sources: "Assets of land."

[a] *i.e.*, the 11th October, 1876.

"Assets of an estate."

(iv) "assets of an estate" mean the assets of all land included in an estate:

"Board."

(v) "Board" means the Board of Revenue for the Provinces for the time being subject to the Lieutenant-Governor of Bengal:

"Chapter."

(vi) "chapter" means a chapter of this Act:

"Deputy Collector."

(vii) "Deputy Collector" includes any Assistant Collector, Deputy Collector or Sub-Deputy Collector whom the Collector may appoint (as he is hereby empowered to do) to effect a partition and allotment of assessment under this Act, or to conduct any of the proceedings connected with such partition and allotment:

"Estate."

(viii) "estate" means all lands which are borne on the revenue-roll of a Collector as liable for the payment of one and the same demand of land-revenue:

"Joint undivided estate."

(ix) "joint undivided estate" means all lands which are borne on the revenue-roll of a Collector as liable for the payment of one and the same demand of land-revenue, and of which two or more persons are proprietors:

"Land."

(x) "land" does not include the houses and buildings standing thereon:

"Lieutenant-Governor."

(xi) "Lieutenant-Governor" means the Lieutenant-Governor of Bengal for the time being, or the person acting in that capacity:

"Parent estate."

(xii) "parent estate" means any estate for the partition of which proceedings may be in progress under this Act, or of which the partition may have been effected under this Act:

"Proprietor."

(xiii) "proprietor" includes every person who is in possession of any estate under partition, or of any portion of such estate, or of any interest in such estate, or in any part of such estate, as owner thereof, whether such person be or be not a recorded proprietor of the estate:

"Recorded proprietor."

(xiv) "recorded proprietor" means a person whose name is registered on the Collector's general register of revenue-paying lands as proprietor of an estate, or of any share or interest therein:

"Section."

(xv) "section" means a section of this Act:

"Separate estate."

(xvi) "separate estate" means any distinct estate which may be formed by the partition of a parent estate under this Act, or for the formation of which proceedings may be in progress under this Act:

"The Collector."

(xvii) "the Collector" means the Collector of the district on the revenue-roll of which the estate under partition, or which it is proposed to bring under partition, is borne, and includes any officer whom the Board may generally vest (as it is hereby empowered to do) with the powers of a Collector under this Act, and to whom the Collector of the district has, with the sanction of the Commissioner, delegated (as he is hereby empowered to do) any

of his duties and functions in respect of the partition of any estate; and any officer whom the Board may specially vest (as it is hereby empowered to do) with the powers of a Collector for the purposes of any partition under this Act:

(xviii) "the Commissioner" means the Commissioner of Revenue to whom the Collector engaged in making the partition is subordinate. "The Commissioner."

5. All partitions of estates which shall be ordered to be made after the commencement of this Act shall be made under the provisions of this Act, and no such partition made otherwise than under this Act shall relieve any lands from liability to Government for the total demand of land-revenue assessed upon the estate of which they form a part. Future partitions to be made under provisions of Act.

6. The amount of land-revenue assessed on each separate estate shall bear the same proportion to the whole amount of land-revenue for which the parent estate was liable as the assets of such separate estate bear to the whole assets of the parent estate. Revenue to be assessed on each separate estate.

7. Except as hereinafter otherwise expressly provided, the average of the amount of rent which was payable for any land by the cultivating raiyats during the three years immediately preceding the year in which proceedings are taken under this Act for the partition of the estate shall, for the purposes of this Act, be deemed to be the rental of such land; Definition of rental.

and if any land is not let, but is held and occupied directly by the proprietors or any of them, the annual rent for which such land might reasonably be expected to let shall be deemed to be the rental of such land.

Exception 1.—If the rent payable by the cultivating raiyats on account of any land shall have been determined by any Court of competent jurisdiction, or shall have been altered with the consent of the said raiyats at any time during the said three years, the amount so determined, or the amount to which the rent may have been so altered, may, if the Collector think proper, be deemed to be the rental of the land.

Exception 2.—If any land is held on a permanent tenure which was created by all the proprietors of the estate, and which by any law for the time being in force is protected against the purchaser at a sale for arrears of revenue, the rent payable by the holder of such tenure shall be deemed to be the rental of such land.

Exception 3.—If any land is held on a tenure which, although not protected as aforesaid, is admitted by all the recorded proprietors of the estate to be a permanent tenure created by all the proprietors of the estate, subject only to the payment of an amount of rent fixed in perpetuity, and of such nature that the rent thereof is not liable to be enhanced under any circumstances by

the proprietors of the said estate, or any person deriving his title from such proprietors, the rent payable by the holder of such tenure (whether he be known as taluqdár, patnidár, mukarraridár or by any other designation) shall be deemed to be the rental of such land.

Exception 4.—If any land be unoccupied, such amount as the Collector may determine, with reference to all the circumstances of the case, shall be deemed to be the rental of such land.

PART II.

Of the Right to claim Partition.

Who entitled to claim partition.

8. Except as hereinafter otherwise provided, every recorded proprietor of a joint undivided estate, who is in actual possession of the interest in respect of which he is so recorded, is entitled to claim a partition of the said estate, and the separation therefrom and assignment to him as a separate estate of lands representing the interest of which he is in such possession:

Provided that, and as far only as, such partition, separation and assignment can be made in accordance with the provisions of this Act.

Any two or more such recorded proprietors may claim that lands representing the interests of all such claimants may be formed into one separate estate, to be held by them as a joint undivided estate; and every provision of this Act which applies to an applicant for partition shall apply to any two or more persons making such joint claim.

Partition according to interest.

9. (*a*) If the interest of any recorded proprietor who is entitled to claim partition as aforesaid is an undivided share in an estate held in common tenancy, such person shall be entitled to have assigned to him as his separate estate lands of which the assets shall bear the same proportion to the assets of the parent estate as his undivided share in the parent estate bears to the entire parent estate.

(*b*) If the interest of such recorded proprietor is the proprietary right of certain specific mauzas or lands forming part of the parent estate, and held by him in severalty, he shall be entitled to have assigned to him as his separate estate the said mauzas or lands.

(*c*) If the interest of such recorded proprietor consists of an undivided share held in common tenancy in certain specific mauzas or tracts forming part of the parent estate, but not extending over the whole area of the parent estate, he shall be entitled to have assigned to him as his separate estate lands situated within such specific mauzas or tracts, of which the assets shall bear the same proportion to the assets of such specific mauzas or tracts as his un-

divided share in such specific mauzas or tracts bears to the entire mauzas or tracts:

Provided that, if the interest of such recorded proprietor consists of such undivided share in more than one mauza or tract, he shall not be entitled to have lands assigned to him in every such mauza or tract, but the Collector may assign to him as his separate estate lands situated in any one or more of the said mauzas or tracts:

Provided that the assets of such lands are in proportion to the aggregate of the interests which he holds in all such mauzas or tracts.

(*d*) If such recorded proprietor holds in the parent estate more than one of the kinds of interest specified in this section, lands shall be assigned to him as far possible in accordance with the principles above laid down.

Life-estate.

10. Notwithstanding anything hereinbefore contained, no person having a proprietary interest in an estate for the term of his life only shall be deemed to be a person entitled to claim partition under this Act.

Partition of permanently-settled estate when allowed.

11. No application for the partition of a permanently-settled estate shall be admitted, and, if the application shall have been admitted, no partition shall be carried out in accordance with such application if the separate estate of any of the proprietors would be liable for an annual amount of land-revenue not exceeding one rupee, until the proprietor of such separate estate agrees to redeem the amount of revenue for which his estate would be liable, by payment of such sum as the Lieutenant-Governor may fix with reference to the circumstances of such estate.

Partition of estate privately divided when to be made.

12. Whenever a division of the lands of any estate has been made by private arrangement of the proprietors thereof, and in accordance with such arrangement each proprietor is in possession of separate lands held in severalty as representing his interest in the estate, no such estate shall be brought under partition, and no partition of such estate shall be made under this Act, otherwise than on a joint petition presented under section 101 or section 105 by all the proprietors thereof, unless such partition shall have been ordered to be made by a Civil Court.

When Collector may refuse formation of lands held in severalty into separate estate.

13. The Collector may refuse to admit an application for the formation of lands held in severalty into a separate estate, if in consequence of such lands being intermingled with those held by other proprietors the result of the partition would be to form out of a compact estate one or more estates consisting of scattered parcels of land in such a way as, in the opinion of the Collector, to endanger the safety of the land-revenue, and the Collector may at any time refuse to proceed with a partition which would have such a result.

But a partition may be allowed in such a case if the recorded proprietors shall agree to such a distribution of land as shall make the estates formed by the partition reasonably compact.

Nothing in this section shall be understood to prohibit the partition into separate estates of a parent estate which before such partition is not compact and consists only of scattered parcels of land.

Interest alienated with special condition as to revenue-liability.

14. No proprietor who has alienated any portion of his interest in an estate, or in any specific lands of an estate, by private contract, with the condition that the transferee shall be liable in respect of the interest acquired by him to pay a specified amount or a specified share of the land-revenue for which the estate is liable (such amount or share being other than the proportionate amount or the proportionate share for which such transferred interest if formed into a separate estate would be liable under the provisions of section 6);

and no proprietor who has derived his title from any proprietor who has made any alienation as aforesaid,

shall be entitled to claim a separation under this Act of the interest which he continues to hold in the estate;

and no such transferee as aforesaid, and no person deriving his title from such transferee, shall be entitled to claim a separation of the interest which has been so acquired:

Provided that a separation of such interests may be made if the parties concerned agree to waive the conditions of the contract as regards the proportion of revenue for which the transferor and transferee or their representatives respectively are liable, and to hold the estates which may be allotted to them respectively by the partition subject to the payment of such amount of land-revenue as may be assessed upon them respectively by the Revenue-authorities under this Act.

Arrears of revenue may be realized by sale of parent estate.

15. Notwithstanding that a parent estate may have been declared to be under partition as provided in section 31, any arrears of revenue accruing due on such estate before the date specified in the notice issued under section 123 may be realized by sale of the parent estate as if such estate had not been declared to be under partition; and, if such sale takes place, the partition-proceedings shall cease from the date thereof.

Shares may be protected from liability for arrears

16. Nothing contained in the last preceding section shall be deemed to affect the provisions of sections 10, 11, 12, 13 or 14 of Act XI of 1859[a] (*an Act to improve the law relating to sales of lands for arrears of revenue*), or any

[a] See Vol. I, pp. 384, 385.

provisions of any similar law for the time being in force in respect to the opening of separate accounts for different shares in an estate, and the protection afforded to such shares thereby: under laws in force.

Provided that, if any share in any estate is sold for its own arrears of revenue while such estate is under partition in accordance with the provisions of this Act, such share shall be sold subject to the partition-proceedings, which shall proceed as if no such sale had taken place; and the purchaser of the share sold may, from the date of such sale, exercise all the rights which the proprietor whose share he has purchased might have exercised, and shall be subject to all the liabilities to which such proprietor would have been subject in respect of the partition-proceedings.

PART III.

Of the Application for the Partition; the Admission of an Estate to Partition; and the Discontinuance of the Partition-proceedings after such Admission.

17. All applications for partition shall be made to the Collector of the district on the revenue-roll of which the estate is borne, and shall be made in person, or by duly authorized agent, on paper bearing such stamp as may be required by any law for the time being in force. Application for partition to be made to Collector of district.

18. The application shall be signed by the applicant, and shall supply the following information in regard to the parent estate, so far as the particulars are known to the applicant or can be ascertained by him:— Application to be signed, and particulars specified.

(*a*) name of the estate;

(*b*) number under which the estate is borne on the revenue-roll, and the revenue-demand for which it is liable;

(*c*) number under which the estate is borne on the Collector's general register of revenue-paying lands;

(*d*) name and address of every proprietor, whether recorded or unrecorded;

(*e*) the character and extent of the interest of which each proprietor is in possession;

(*f*) a specification of any lands held by all or any of the proprietors of the parent estate in common with all or any of the proprietors of other estates, and of the rights of such proprietors respectively in such lands.

19. Subject to the provisions of section 61, every application shall, if Application

to be accompanied by copy of rent-roll and statement of rents.

possible, be accompanied by a copy of the rent-roll of the estate, by a statement of the rents collected from such estate on behalf of the applicant during each of the three years immediately preceding such application, and by copies of any measurement-papers of the estate which the applicant may have in his possession.

The said rent-roll, statement and measurement-papers shall be attested by the patwáris of the villages, if any, and every such application, rent-roll and statement shall be presented, subscribed and verified as provided in section 52.

If the applicant is unable to produce a rent-roll or statement as above required, he shall state the reason of such inability, and the name and address of the person who has in his possession the information necessary for the preparation of such rent-roll and statement, and the Collector may, if he shall think fit, require such person to produce such rent-roll and statement.

Collector may reject application.

20. If the application does not fulfil the requirements of the three last preceding sections, the Collector may reject such application or may order it to be amended.

Procedure of Collector on receipt of application.

21. If in the opinion of the Collector the application fulfils the said requirements, and there appears to be no objection to making the partition, the Collector shall publish a notification of the application in the manner prescribed in section 134, and shall also cause copies thereof to be posted up at the Court of the Judge of the district, at the Court of every Munsif and Subdivisional Officer within whose jurisdiction, and at every police-station within the jurisdiction of which, any lands appertaining to the estate are known to be situated, and shall invite any person claiming any proprietary right in the estate, who may object to the partition, to state his objection either in person, or by duly authorized agent, on a day to be specified in the notification, not being less than thirty or more than sixty days from the date of the publication of the notification on the estate.

Notice to proprietors not joining.

22. Notice of the application shall also be served in the manner prescribed by section 135 on such of the recorded proprietors of the estate as shall not have joined in the application, and on any other proprietor who may have been named in the application.

On valid objection being made within time allowed, application may be refused.

23. If any objection be made to the partition by any person claiming a proprietary right as aforesaid on or before the day specified in the notification published under section 21, or at any subsequent time if it shall seem fit to the Collector to admit such objection, and the Collector, on consideration of such objection, shall be of opinion that there is good and sufficient reason for

rejecting the application, he may reject the same, and in that case shall record the grounds of such rejection.

Procedure when objection raises question of title or right.

24. If the objection raises any question of the extent of interest, or of right or title as between any applicant and any other person claiming to be a proprietor of the parent estate, and if it shall appear to the Collector that such question has not been already determined by a Court of competent jurisdiction, the Collector may hold such inquiry as he may deem necessary into the objection, and, if he be satisfied that the applicant is in possession of the extent of the interest for the separation of which he has applied, may, instead of rejecting the application as provided in the last preceding section,—

(*a*) direct that the partition-proceedings shall proceed for the purpose of forming and assigning to the applicant a separate estate in accordance with the extent of interest claimed by him in the parent estate; or

(*b*) direct that such proceedings be postponed for four months.

When Collector to resume proceedings.

25. At the expiration of the said four months, the Collector shall resume the proceedings, unless the person who has made the objection, or some other person, shall have obtained an order from a Civil Court directing that such proceedings be stayed, or shall be able to show that a suit has been instituted before such Court to try some question of such nature that the Collector shall think fit to stay the proceedings until the question shall have been finally decided, or until the proceedings in such Court in respect thereof shall have terminated.

Suit in Civil Court when not to affect proceedings under Act.

26. No suit instituted in a Civil Court by any person claiming any right or title in the parent estate, after the lapse of four months from the issue of an order of the Collector under clauses (*a*) and (*b*) of section 24, or after the lapse of four months from the issue of an order of the Collector under section 31 declaring the estate to be under partition, shall avail to stay or affect the progress of any proceedings which shall have been taken under this Act for the partition of an estate; and all rights which may be conferred on any person by the final decree in such suit shall be subject to such proceedings in the manner hereinafter provided.

Decree made while partition-proceedings in progress.

27. Every decree passed in such suit after the parent estate shall have been declared to be under partition as provided in section 31, but before the date specified in the notice under section 123, shall be made in recognition of the proceedings then in progress under this Act for the partition of such parent estate, and shall be framed in such manner that the provisions of such decree may be applied to, and may be carried out in reference to, the separate estate

which the Collector in his proceeding under section 31 shall have ordered to be formed out of the parent estate;

and if the effect of any such decree be to declare any person or body of persons entitled to any extent of interest in such parent estate in excess of the extent of interest which the Collector in the said proceeding has declared to be held by such person or body of persons, such decree shall specify, separately in respect of every proprietor or body of proprietors of whose interests the Collector has separately specified the extent in the said proceeding, the proportion of such excess which such person or body of persons is entitled to recover from every such proprietor or body of proprietors;

and every person or body of persons so declared entitled to recover any extent of interest from any such proprietor or body of proprietors shall, for the purposes of the partition-proceedings, be deemed to have the same rights, and to be subject to the same liabilities, as a person who has acquired such extent of interest from such proprietor or body of proprietors by private purchase after the estate was brought under partition under section 31, and on the date on which the decree was passed;

and such person or body of persons may apply, as in this Act provided, for the separation and assignment to him, or them, of the lands representing the extent of interest so acquired;

and such application shall be dealt with as provided in section 32.

Decree made after partition-proceedings completed.

28. Every decree passed after the date specified in the notice under section 123 in a suit which was instituted as mentioned in section 26 shall be made in recognition of the partition-proceedings, and shall be framed in such manner as to give effect to such division of the parent estate into separate estates as shall have been made by the Collector, and not to disturb such division;

and, if the effect of any such decree shall be to declare any person or body of persons to have been entitled to any extent of interest in the parent estate in excess of the extent of interest which is represented by the separate estate assigned to such person or body of persons by the Collector in the partition-proceedings, such decree shall specify, separately in respect of the proprietor or joint proprietors of every separate estate formed by the partition, the proportion of such excess of interest which such person or body of persons is entitled to recover from such proprietor or joint proprietors; and every person or body of persons so declared entitled to recover any extent of interest from the proprietor or joint proprietors of a separate estate shall be entitled to recover such extent

of interest out of the separate estate which has been assigned to such proprietor or joint proprietors, and out of such separate estate only;

and every such decree as aforesaid shall be executed by placing the person or persons so declared entitled to recover in the position of a recorded joint proprietor or recorded joint proprietors of such separate estate, holding the same as a joint undivided estate in common tenancy with the proprietor or joint proprietors to whom such separate estate was assigned by the Collector in the partition-proceedings, the extent of the interest of the joint proprietors respectively in such estate being such as is declared in the aforesaid decree.

Civil Court may order partition.

29. Subject to the provisions of section 11, a Civil Court may at any time direct the Collector to assign to any person lands representing a specified interest in any estate, or in any specified village or tract of land in an estate, to be held by such person as a separate estate, or to divide off from any estate any specified villages or lands, and to assign them to any person to be held as a separate estate, provided that an application for such partition and separation shall be presented by such person, as required by sections 17, 18 and 19;

but no Civil Court shall in any case specify the amount of revenue for which any separate estate which it may direct to be formed under the provisions of this section shall be liable.

Collector to assess land-revenue in accordance with Act.

30. The Collector shall assess the land-revenue on every such separate estate in accordance with the provisions of this Act, and no Civil Court shall direct the Collector to carry out a partition otherwise than in accordance with the provisions of this Act.

Collector may declare estate to be under partition.

31. If no objection be made within the time allowed under section 21 to an application for partition, or when all objections have been disposed of, and if the Collector has no reason to believe that any obstacle exists to his making the partition as applied for, he shall direct that the application be admitted, and record a proceeding declaring the estate to be under partition, for the purpose of forming and assigning to the applicant a separate estate.

In such proceeding the Collector shall declare the extent of interest in the parent estate which he finds to be held by the applicant or joint applicants;

and, if more than one separate application for separation shall have been made and admitted, the extent of interest which he finds to be held by every separate applicant or body of joint applicants respectively;

and also the extent of interest which remains to any recorded proprietor, or to any number of recorded proprietors who are not applicants;

and shall order that lands proportionate to the interest so declared to be held by each applicant, or body of joint applicants respectively, shall be formed into a separate estate, to be assigned to such applicant or body of joint applicants;

and that lands proportionate to the interest so declared to remain to the recorded proprietor, or the number of recorded proprietors who are not applicants, shall be left forming a separate estate.

Subsequent application for separation of other share.

32. If at any time after the Collector has made an order for partition under the last preceding section any recorded proprietor in the estate, other than the original applicant, shall apply for the separation of his share, the Collector may either order that the proceedings for effecting such separation shall be carried on simultaneously with those for separating the share of the original applicant, or, if he consider that such a course would entail delay in the completion of the original proceedings, he may order that no action shall be taken on such subsequent application until after the proceedings for the separation of the original applicant's share shall have been completed.

In the latter case all or any of the rent-rolls, measurements and other papers which were used in the separation of the original applicant's share may be used, as far as they are applicable, in the partition for which subsequent application has been made.

Collector may refer application for partition to Deputy Collector.

33. The Collector may refer any application for partition to a Deputy Collector for the purpose of making any enquiries and doing anything required by this Part:

Provided that every order—

(*a*) rejecting an application under section 23;

(*b*) directing, under section 24, that the partition shall proceed, or shall be postponed;

(*c*) directing, under section 31, that an application for partition be admitted, and declaring an estate to be under partition;

(*d*) made under the first clause of the last preceding section;

(*e*) appointing a Deputy Collector under the next succeeding section to carry out the partition,

shall be passed by the Collector and not by any Deputy Collector.

Appointment of Deputy Collector to carry out partition.

34. As soon as the Collector has declared an estate to be under partition as provided in section 31, he may appoint a Deputy Collector to carry out the partition, and all or any of the proceedings necessary thereto.

(*Part III.—Of the Application for the Partition; the Admission of an Estate to Partition; and the Discontinuance of the Partition-proceedings after such Admission. Secs. 35-36. Part IV.—Of Establishments for effecting Partitions and of the Cost thereof. Sec. 37.*)

35. If, at any time after an order shall have been passed for making a partition, all the recorded proprietors of the estate shall present a petition to the effect that they do not wish the partition to proceed, the Collector may, on the report of the Deputy Collector or otherwise, strike the partition-case off the file, on payment by the proprietor of all costs and expenses incurred in and about such partition; and any such costs and expenses which shall not already have been levied as provided in section 39 or section 40 shall be levied in proportion to the shares of the respective proprietors.

Partition stayed if parties desire.

Recovery of costs.

36. If, at any time after an order shall have been passed for making a partition, it shall appear from information which was not before the Collector at the time the partition was ordered, or otherwise, that any sufficient reason exists why the partition should not be proceeded with, the Commissioner may, on the report of the Collector or otherwise, after issuing a notice calling on the persons interested to show cause why the partition should not be struck off the file, and after considering any objections which may be made, order the partition-case to be struck off the file;

Partition may be stayed and proceedings quashed by Commissioner.

and in such case any costs and expenses of the partition which shall not already have been levied as provided in section 39 or section 40 shall be levied in proportion to the shares of the respective proprietors.

PART IV.

Of Establishments for effecting Partitions and of the Cost thereof.

37. For the purposes of this Act, the Deputy Collector may, with the approval of the Collector, and subject to any rules made in that behalf by the Board, appoint such establishments as may be required—

Deputy Collector may appoint officers for making measurement of lands, &c.

for making the measurement and survey of lands;
for ascertaining and recording the rates of rent;
for making any other local inquiries;
for the preparation of the papers, and
for other matters in each case;

and the Collector may appoint such peshkars or other superior officers as may be required to test the work of the amins, and for the performance of similar duties:

Provided that the scale of remuneration of such officers, and the time for which they shall be employed, shall be sanctioned by the Commissioner.

Special establishments may be appointed.

38. In any district or division in which partitions may be so numerous or so extensive as to render necessary the appointment of special establishments in the office of the Collector or of the Commissioner, the Collector and the Commissioner may, with the sanction of the Board, appoint such establishments.

Levy of cost of partition from proprietors.

39. As soon as possible after an estate has been declared to be under partition as provided in section 31, the cost of making the partition shall be estimated, and the amount shall be levied from the proprietors in such instalments and at such times during the progress of the partition as may be fixed in accordance with any rules which the Board may make in that behalf.

If the amount first estimated is found insufficient, supplementary estimates may be made from time to time, and the required amount may be levied as above provided.

Apportionment of costs.

40. The cost shall be apportioned on the proprietors of each share in proportion to their shares; but whenever it shall appear to the Commissioner that the partition-proceedings have been unnecessarily delayed, and the cost of the partition enhanced by obstacles vexatiously put in the way of their completion by one or more of the proprietors, or by want of due diligence on the part of one or more of the proprietors in carrying out any requisitions made upon him or them, the Commissioner may direct that such portion of the cost as he may think proper in excess of the amount proportionate to his or their share shall be levied from such proprietor or proprietors.

Deputy Collector may declare cost of local inquiry.

41. Whenever any local inquiry may be held by the Deputy Collector or any other officer, in consequence of an objection raised by any person to any record of measurements, rent-rolls or other information which has been laid before the Deputy Collector, the Deputy Collector may declare the cost which has been incurred by such inquiry, and may direct that the entire cost so declared shall be paid by the person making the objection, or by any one of the proprietors, or that such cost shall be paid in such proportions as he shall think fit, by the said person and the proprietors or any of them, or that such cost be deemed a part of the general cost of making a partition as prescribed in section 39.

After completion of partition, Collector to declare total cost.

42. Upon the completion of the partition, the Collector shall make an order declaring the total cost thereof.

The account shall then be adjusted, either by returning to the proprietors any sums which they may have paid in excess of the total cost, or by levying from them in the manner provided in section 138, if necessary, any sums remaining due.

43. Whenever it shall appear to the Lieutenant-Governor that in any district the work required to be done by Deputy Collectors in connection with partitions under this Act is so great that such work would, if concentrated in the hands of one or more Deputy Collectors, fully occupy the time of such one or more Deputy Collectors, the Lieutenant-Governor may make an order directing that the salary of such one or more Deputy Collectors, as the case may be, shall be recovered from the proprietors of estates under partition in such district as part of the cost of such partitions, and thereupon such charge as the Collector may think fit to make in respect of such salary shall, in addition to the items mentioned in the last preceding section, be deemed to be a portion of the costs of every partition.

Salary of Deputy Collectors when deemed part of cost.

For the purposes of this section the salary of every Deputy Collector shall be deemed to be the amount of salary which is drawn by a Deputy Collector of the lowest grade.

44. For the purposes of sections 39, 40 and 42, the costs of any partition shall be deemed to be—

Costs leviable from proprietors.

(*a*) the cost of any establishments entertained for the partition under section 37, or such amount as the Collector may think proper in respect of the services of any such establishments which are entertained for the purposes of making partitions in the district;

(*b*) all contingent expenses incurred in and about the partition, and

(*c*) such portion of the cost of any establishment entertained under section 38 as the Collector may order.

45. Notwithstanding anything contained in the eight last preceding sections, the Lieutenant-Governor may direct that in any district a fund to be called the "Estates' Partition Fund" shall be formed, into which all sums levied from the proprietors of estates in respect of partitions of their estates shall be paid.

Lieutenant-Governor may direct "Estates' Partition Fund" to be formed.

Whenever such a fund shall have been established in any district, all expenses of making partitions of estates in such district shall, except as hereinafter otherwise provided, be defrayed from such fund.

46. Whenever the Lieutenant-Governor shall have ordered an "Estates' Partition Fund" to be formed in any district, the charges leviable from the proprietors of any estate under partition may be estimated and levied according to the estimate in each case as provided in sections 39 and 40, subject to final adjustment, as provided in section 42, or they may be levied according to a general scale of fees to be fixed by the Board.

Procedure when Estates' Partition Fund formed in district.

47. Such scale of fees shall be fixed as nearly as may be, so that the

Scale of fees.

receipts and expenditure of the said fund shall balance one another, and shall be revised from time to time by the Board for that purpose.

Such fees shall be levied from the proprietors in such instalments and at such times during the progress of the partition as may be fixed in accordance with any rules which the Board may make in that behalf, and the provisions of section 40 shall be applicable to such fees.

Abstract of Estates' Partition Fund to be published.

48. An Abstract of the Estates' Partition Fund of each district made up to the end of each year shall be published in the Calcutta Gazette, and by being posted up at the office of the Collector of the district.

Costs chargeable to Estates' Partition Fund.

49. For the purposes of sections 45, 46 and 47, the expenses of making partitions in any district shall be deemed to be—

(*a*) the cost of all establishments entertained in the district under section 37;

(*b*) all contingent expenses incurred in all partitions in the district;

(*c*) the cost of any special establishment appointed in the office of the Collector under section 38;

(*d*) such portion as the Commissioner may direct of the cost of any special establishment appointed in his office under section 38;

(*e*) the salary of any one or more Deputy Collectors which the Lieutenant-Governor may have ordered under section 43 to be recovered from the proprietors of estates under partition.

When Civil Court may order parties to pay expenses of dividing estate.

50. Whenever any Civil Court shall make a decree awarding or declaring any proprietary right in an estate, and shall require the Collector to make a partition of the estate, such Court may at the same time direct—

that the party or parties who may have withheld the right so decreed shall defray the whole of the expense which may be incurred in and about the partition, or the whole of the fees payable in respect of the partition under section 46,

or that the said expenses or fees shall be defrayed by all or any of the parties to the suit in which the decree was made in such proportions as the Court may, from a consideration of the particular circumstances of the case, deem equitable.

Copies of all orders which the Court may pass under this section shall be transmitted to the Collector for his guidance, together with the precept which the Court may issue to him requiring him to divide the estate; and the Collector shall levy the said expenses and fees from the parties in the proportion ordered by such Court in the same manner and by the same means as if the levy of such expenses and fees had been ordered by the Collector.

PART V.

Of the Partition-proceedings up to the Adoption of a Rent-roll and Measurement-papers.

On estate being declared under partition, Deputy Collector to cause notification to be published.

51. As soon as the Collector shall have made an order under section 31 declaring an estate to be under partition, the Deputy Collector shall cause a notification to be published in the manner prescribed by section 134, and shall also cause copies thereof to be posted up at the Court of the Judge of the district in which any lands appertaining to the parent estate are known to be situated, and at the Court of every Munsif and of every Subdivisional Officer within the jurisdiction of whom, and at every police-station within the jurisdiction of which, any such lands are known to be situated, intimating his intention to proceed with the partition, and requiring all the proprietors of the estate to produce before a certain date, being not less than forty days from the date of such notification, either jointly or separately, copies of their rent-rolls and statements of the rents collected during each of the three years next preceding, and also copies of any measurement-papers of the estate which may be in their possession.

A notice to the same effect shall also be served as provided in section 135 on each proprietor of the parent estate.

The Deputy Collector may, on sufficient grounds for so doing being shown to his satisfaction, from time to time extend the period for producing any such return.

Rent-roll filed by proprietor to be subscribed and verified.

52. Every rent-roll, statement of rents collected and measurement-paper furnished to the Collector under this Act shall be presented by the person who is required to produce the same or by a duly authorized agent of such person who has a personal knowledge of the facts stated therein, and shall be subscribed and verified at the foot by such person or such agent in the manner following, or to the like effect:—

"I, *A. B.*, do declare that this rent-roll (statement *or* measurement-paper) is correct to the best of my knowledge and belief."

If the rent-roll, statement or measurement-paper shall contain any entry which the person making the verification shall know or believe to be false, or shall not believe to be true, such person shall be subject to punishment according to the law for the time being in force for the punishment of giving or fabricating false evidence.

Procedure if

53. If any proprietor who is required to produce any rent-roll or statement

person required cannot produce rent-roll or statement.

by notice as aforesaid is unable to produce such rent-roll or statement, he shall state to the Deputy Collector the cause thereof and the name and address of the person who has in his possession the information necessary for the preparation of such rent-roll and statement, and the Deputy Collector may, if he shall think fit, require such person to produce such rent-roll and statement.

Deputy Collector may order measurement and test rent-roll.

54. The Deputy Collector may, if necessary, make, or may cause to be made, a measurement of all or any of the lands comprised in the estate, and may prepare or cause to be prepared a rent-roll, and may test or cause to be tested on the spot any rent-roll which has been produced as aforesaid, and may make or cause to be made any local enquiry which he may consider necessary.

Deputy Collector to summon proprietors by proclamation to attend proceedings.

55. Before proceeding or deputing the amin to the spot, the Deputy Collector shall publish a notification in the manner prescribed by section 134, requiring the several proprietors of the estate, their managers and any other persons employed in the management of the land, or otherwise interested therein, to attend in person or by agent upon him, or upon the amin who is deputed to make the measurement or enquiry, for the purpose of pointing out boundaries and of affording such assistance and information as may be required for the purposes of this Act.

Deputy Collector and amin may require attendance of proprietor or other person.

56. The Deputy Collector, and any amin or other person who is specially authorized in that behalf by the Collector, may, by a notice served as provided in section 135, require any proprietor or other person whose attendance may be required to attend before the Deputy Collector or amin who is making such measurement or enquiry within a specified time at any place for any of the purposes aforesaid.

Deputy Collector to test amin's work.

57. If any objection be made to a measurement, map or rent-roll prepared by the amin, or if for any other reason it seems desirable, the Deputy Collector shall, as soon as possible after completion of the amin's work, himself test, or shall cause to be tested on the spot, such measurement, map and rent-roll, and may accept, amend or reject the same, or any of them.

If the Deputy Collector shall deem it necessary, he may cause the work or any portion thereof to be done again.

Examination of parties and their papers.

58. The Deputy Collector may examine any person on solemn affirmation in regard to the papers produced before him, whether by the proprietors, by the amin, or otherwise, and shall allow the parties concerned to put any necessary questions to such person.

The Deputy Collector shall also allow any proprietor or other person interested to examine the papers so produced, and to take a copy of the same, and

after such examination shall hear any objections which any of the persons interested may make in respect of such papers, and shall decide whether any, and (if any) which, of the papers as they stand, or with such modifications as he may think necessary, shall be accepted as correct for the purposes of the partition.

Power of Deputy Collector if proprietor fails to file rent-roll.

59. If any proprietor who has been required to produce a rent-roll or statement under section 51 fails to produce the same after the imposition on him of a fine under section 137 for thirty days, or fails to state to the Deputy Collector the name and address of any person under section 53, the Deputy Collector may declare that the said proprietor shall, for the purposes of the partition, be bound by such rent-roll as the Deputy Collector may adopt as the basis of the partition as hereinafter provided, and after such declaration any officer exercising authority under this Act may refuse to entertain any objection which such proprietor may make to such rent-roll.

Power of Deputy Collector if person fails to produce rent-roll.

60. If any person who has been required to produce a rent-roll or statement under section 53 shall fail to produce the same after the imposition on him of a fine under section 137 for thirty days, the Deputy Collector may declare that the proprietor who may have stated the name of such person under section 53 shall, for the purposes of the partition, be bound by the rent-roll which the Deputy Collector may adopt for the basis of the partition as hereinafter provided, and after such declaration any officer exercising authority under this Act may refuse to entertain any objection which such proprietor may make to such rent-roll.

Collector may dispense with rent-roll, maps and other papers.

61. Notwithstanding anything contained in this Act, if it shall appear to the Deputy Collector that any measurements, maps, rent-rolls or other papers relating to the estate which have been prepared otherwise than for the purposes of the partition, or otherwise than for the purposes of this Act, afford information sufficiently trustworthy to enable him to effect the partition, the Deputy Collector may adopt such information and such papers either wholly or in part for the purposes of the partition, and may dispense with any rent-rolls, maps or other papers for which he is authorized to call, or which an applicant is required to produce, under this Act.

Proprietor failing to attend not entitled to object subsequently.

62. No proprietor or other person who shall have failed to attend in person or by agent during the measurement as required by the notification published under section 55 shall be entitled at any subsequent time to make any objection to such measurement;

but the Collector may admit any objection made by such proprietor or person if he think fit, provided that any expense entailed by a local enquiry

made in consequence of such subsequent objection shall be paid entirely by such proprietor or person.

Notification of date for deciding mode of partition.

63. When the Deputy Collector is finally satisfied that the papers before him, whether rent-rolls, measurement-papers, maps or other papers, are sufficient and sufficiently correct to be accepted or adopted for the purposes of the partition, he shall make an order to that effect, and shall fix a day on which to determine the general arrangement of the partition, and shall publish a notification in the manner prescribed by section 134, calling on all the proprietors to be present on the day so fixed, such day being not less than thirty or more than sixty days after the publication of the notification in his office, and shall serve a notice to the same effect on each proprietor or his agent.

PART VI.

Of Partition by amicable Arrangement or by Arbitration.

Deputy Collector may allow parties to make private partition.

64. On the date fixed under the last preceding section, if a petition to that effect signed by all the recorded proprietors shall have been presented, the Deputy Collector may allow such proprietors to make a private partition of the estate amongst themselves on the basis of the papers which have been accepted or adopted for the purposes of the partition by the Deputy Collector, or may refer the partition to be made by an arbitrator or arbitrators on such basis.

If the proprietors who have elected to make such private partition shall fail to make the same within such time as may be fixed by the Deputy Collector, the Deputy Collector may refer the partition to be made by an arbitrator or arbitrators, or may make the partition himself.

Procedure on reference to arbitration.

65. Whenever any partition shall have been referred to arbitration, the proceedings shall be conducted in accordance with the provisions of sections 506 to 522 (both inclusive) of the Code of Civil Procedure[a] as far as those provisions are applicable, and except as herein otherwise expressly provided. XIV of 1882.

Arbitrators to deliver partition-paper.

66. The arbitrators shall deliver, within a time to be fixed by the Deputy Collector, which time may be further extended by him, a full and complete paper of partition, in such form as may be prescribed by the Board for partitions made by the Collector or Deputy Collector.

Remuneration of arbitrators.

67. The arbitrators, on delivering the paper of partition as aforesaid, shall be entitled to reasonable fees for their services, the amount of which shall be

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[a] Act XIV of 1882, s. 3, in General Acts, 1882—84, p. 32.

(*Part VI.—Of Partition by amicable Arrangement or by Arbitration. Secs. 68-70. Part VII.—Of the Procedure from the Determination of the general Arrangement of the Partition by the Deputy Collector to the Approval of the Partition by the Collector. Sec. 71.*)

fixed, with the approval of the Commissioner, by the officer making the reference to arbitration, and shall be considered to form part of the cost of making the partition.

Partition under this Part subject to approval of Collector and superior Revenue-authorities.

68. Every partition made under the provisions of this Part by the parties, or by arbitrators appointed by them, shall be subject to the approval of the Deputy Collector and to the confirmation of the Collector and the orders of the superior Revenue-authorities:

Provided that neither the Deputy Collector nor any other authority shall disallow any partition so made on any other ground than that of fraud, or that, in the opinion of the Deputy Collector or such other authority, the partition cannot be confirmed without endangering the safety of the land-revenue.

Land-revenue to be assessed by Collector.

69. Whenever a partition has been made under the provisions of this Part, the land-revenue shall be assessed by the Collector on each separate estate into which the parent estate is divided by such partition in the manner prescribed by section 6.

When Deputy Collector may withdraw case from arbitration.

70. If the paper of partition be not delivered within the time fixed by the Deputy Collector, or within any further period to which the time may have been extended, the Deputy Collector may withdraw the case from arbitration and may make the partition himself.

PART VII.

Of the Procedure from the Determination of the general Arrangement of the Partition by the Deputy Collector to the Approval of the Partition by the Collector.

Procedure when no petition presented under section 64.

71. If no petition shall have been presented under section 64, the Deputy Collector shall, on the date fixed under section 63, or on any other date to which the hearing may have been postponed by a notice posted at the office of the Deputy Collector, consult orally each proprietor present, and endeavour, as far as possible, with the concurrence of the proprietors present, to settle a general arrangement of the partition in accordance with the requirements of this Act.

For this purpose he shall endeavour to obtain from each proprietor an acknowledgment of his acceptance of the rent-roll, map and any other papers which have been adopted by the Deputy Collector for the purposes of the partition, and shall briefly record the objections of any proprietor who still objects to accept such rent-roll, map or other papers.

(Part VII.—Of the Procedure from the Determination of the general Arrangement of the Partition by the Deputy Collector to the Approval of the Partition by the Collector. Secs. 72-76.)

Deputy Collector may postpone general arrangement.

72. If, in consequence of any objections made before the Deputy Collector has settled the general arrangement of the partition as provided in the last preceding section, the Deputy Collector considers it necessary to make further enquiry, he may, by notice to the recorded proprietors, postpone the settlement of the general arrangement of the partition to a date being not less than fifteen days from the service of the notice on any proprietor.

Deputy Collector may award to proprietor compensation for attendance.

73. If the objections on account of which the said settlement is postponed are such that the person making the same might have made them on an earlier day, the Deputy Collector may award to each proprietor, who shall have attended in person or by agent in accordance with the notice, such sum, not exceeding sixteen rupees, as he shall think fit by way of compensation for such attendance.

The sum so awarded shall be paid by the person making the objections as aforesaid, and may be recovered from him in the manner provided by section 138.

If no postponement made, Deputy Collector to determine general arrangement.

74. If the objections have already been enquired into and disposed of, or are such as not to render necessary any further enquiry and postponement, or when any objections which may require further enquiry have been disposed of, the Deputy Collector shall record an order to that effect, and, after hearing what each proprietor present may urge, shall hold a proceeding determining the general arrangement of the partition and the mode in which the parent estate shall be divided, and, in a general way, the position of the lands which shall be assigned to each of the separate estates.

In determining the general arrangement of the partition, the Deputy Collector shall be guided by the rules which are laid down in Part VIII, and shall direct the partition to be made in the manner which, in his opinion, is on the whole most in accordance with such rules, and most equitable and most convenient to all parties concerned.

General arrangement of partition to be submitted for sanction of Collector.

75. The general arrangement of the partition, as determined under the last preceding section, shall be submitted for the sanction of the Collector, who shall by notice fix a date for the consideration of the same, not being less than fifteen days after the publication of the said notice in his office, and, after hearing and disposing of any objection which may be preferred, shall pass such orders as he may think proper, setting aside, amending or approving the general arrangement made by the Deputy Collector.

Deputy Collector to fix boundaries.

76. When the general arrangement has been approved by the Collector, the Deputy Collector shall proceed to fix the exact boundaries of each separate

estate, after considering the wishes which the parties may express in respect thereof.

77. When the Deputy Collector shall have so determined the boundaries, he shall cause to be drawn up a paper of partition specifying in detail the villages and lands which he has included in each of the separate estates, the rental thereof, with any other assets of each separate estate, the name or names of the recorded proprietor or proprietors of each separate estate, any stipulations which may have been made regarding places of worship, tanks or other matters as mentioned in Part VIII, and the amount of land-revenue to be assessed on each separate estate;

Deputy Collector to draw up paper of partition and map.

he shall also prepare a map showing the lands which fall within each separate estate and the boundaries thereof, unless the preparation of such map shall be dispensed with by special permission of the Collector.

78. The Deputy Collector shall submit the partition-paper and map as aforesaid and all other papers of the partition to the Collector with a full report of the proceedings taken, the reasons which influenced the Deputy Collector in selecting the lands included in each separate estate, the nature of the accounts upon which the apportionment of the land-revenue assessed thereon has been based, and all other particulars material to the case.

Deputy Collector to submit papers to Collector.

79. The Deputy Collector shall at the same time cause to be prepared a separate extract of the portion of the partition-paper which relates to each separate estate,

Deputy Collector to prepare extracts of partition-papers for each proprietor.

and shall cause to be tendered to any recorded proprietor of a separate estate, or any authorized agent of such proprietor, who may be in attendance at the Deputy Collector's office, the extract which relates to such separate estate;

and the Deputy Collector shall publish a notice at his office calling upon every proprietor to whom or to whose agent an extract from the partition-paper has not been tendered as above mentioned, to take out of the Deputy Collector's office the extract of the portion of the partition-paper relating to his separate estate.

If the circumstances of the partition so require, an extract of the map prepared by the Deputy Collector, or a copy of such map, shall be annexed to every separate extract from the partition-paper herein mentioned.

80. On receipt of the papers and report mentioned in section 78, the Collector shall cause a notification to be published in the manner prescribed by section 134 fixing a date, not being less than six weeks from the date of the

On receipt of papers and report, Collector to

publish notification.

publication of such notification on the parent estate, on which he will proceed to take up the case, and to consider any representations and objections which may be preferred in respect of the partition made by the Deputy Collector, and calling on all parties concerned, who may wish to do so, to inspect the papers at his office before such date, and to take copies of any such papers as they may require.

The Collector shall also cause a notice to the same effect to be served on each of the recorded proprietors.

Procedure of Collector thereupon.

81. On the date so fixed, or on any other date to which the hearing may have been postponed, the Collector shall take into consideration the papers as laid before him, and, after calling for any further information which he may deem necessary, and disposing of any objections which shall be made to the proposed partition and allotment of land-revenue, may approve the partition as made by the Deputy Collector with such amendments as he may think proper, or return it for amendment to the Deputy Collector who made it, or to another Deputy Collector, or make a fresh partition himself.

The Collector may return the said papers for amendment or enquiry as often as he may think fit.

Proprietor when not entitled to make subsequent objection.

82. No proprietor who shall have failed to appear before the Deputy Collector in person or by agent on any date fixed for the arrangement of the partition under section 63 or section 72, and no proprietor who shall have failed so to appear before the Collector on any date fixed under either of the two last preceding sections, shall be entitled, at any subsequent time, to make any objection to the orders which may be passed on such dates respectively.

Collector may cause fresh partition-paper and map to be prepared.

83. When the Collector approves the partition made by the Deputy Collector with amendments, he may cause a fresh partition-paper and map to be prepared, or may cause the amendments made by him to be noted on the paper and map submitted by the Deputy Collector.

When the Collector makes a fresh partition himself, he shall cause a fresh partition-paper and map to be prepared.

Procedure when Collector approves of partition without amendment.

84. Whenever the Collector shall have approved a partition (whether with or without amendments), he shall cause a notice to be served on each of the recorded proprietors that the papers will be submitted at once for confirmation of the partition by the Commissioner, and that any appeals or objections must be presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days of the date of the service of the said notice, or, if the Collector has approved the partition with amendments, and

the notice requires the proprietor to produce the extract of any partition in order that amendments may be noted thereon, or to take out a fresh extract from the partition-paper, as provided in the next succeeding section, then within six weeks of such date.

Procedure when Collector approves partition-paper with amendments.

85. Whenever the Collector shall have approved a partition with amendments, and shall, under section 83, have caused such amendments to be noted on the partition-paper and map submitted by the Deputy Collector, the notice to be served on each of the recorded proprietors under the last preceding section shall, in the case of every such proprietor whose separate estate is affected by such amendment, in addition to the particulars mentioned in the said section, require such proprietor to produce before the Collector, within fifteen days of the service of such notice, the extract from the paper of partition which has been prepared, and any map relating to his separate estate which may have been prepared under section 79, in order that the amendments made by the Collector in the partition may be noted thereon; and such amendments shall be noted thereon by the Collector accordingly, and such extract and map shall be returned to the proprietor who produced them.

Whenever the Collector shall have caused, under section 83, a new partition-paper and map to be prepared, he shall order separate extracts from the portions of the partition-paper which relate to each separate estate, and maps, if necessary, to be prepared as required by section 79, and in such case the notice served under the last preceding section shall, in addition to the particulars mentioned in that section, declare the extracts and maps which were furnished or offered to proprietors under section 79 to be cancelled, and shall require the recorded proprietors to take out of the Collector's office such extracts and maps relating to their respective separate estates.

Papers to be forwarded to Commissioner.

86. As soon as practicable after the issue of the notice under section 84, the Collector shall forward to the Commissioner all papers relating to the partition as approved or as made by the Collector.

PART VIII.

Of the general Principles on which Partitions shall be made.

Rules applicable to the Partition of Lands which are held by the Proprietors in common Tenancy.

Estates

87. Each separate estate shall be made as compact as is compatible with

formed in course of partition to be compact.

the primary object of making an equitable partition among the proprietors, and with the other provisions of this Part, but no partition made or approved by a Collector shall be set aside on the ground only that the separate estates are not compact.

Circumstances to be considered in making partitions.

88. In selecting the villages or lands to be assigned to each separate estate formed out of a parent estate which has been held in common tenancy, the Collector shall take into consideration—

the advantages or disadvantages arising from situation;
the vicinity of roads, railways, navigable rivers or canals;
the nature and quality of the soil and produce;
the quantity of cultivable and uncultivable waste-land;
the facilities for irrigation;
the state of the embankments and water-courses;
liability to accretion and diluvion;
and any other circumstances affecting the value of the lands.

Rule when dwelling-house belonging to one proprietor is situated on ground allotted to another.

89. If a dwelling-house belonging to one proprietor is situated on any land which it may be necessary to include in the separate estate of another proprietor, the owner of such house may retain occupation thereof with the offices, buildings and grounds immediately attached thereto, upon agreeing to pay rent for the land occupied by such dwelling-house, offices, buildings and grounds to the proprietor of the separate estate in which such land is included.

The limits of the land so occupied and the rent to be paid for it in perpetuity shall be fixed by the Deputy Collector, and shall be stated in the paper of partition.

In every such case a defined pathway shall, as far as possible, be secured to the owner of the house, leading from his house to some portion of the separate estate allotted to him.

Rule in last preceding section applied to gardens, orchards, &c.

90. Whenever the Deputy Collector shall think fit, he may apply the rule contained in the last preceding section to gardens, to orchards of trees, to land planted with bamboos, and to any other lands which in his opinion are of special value to the proprietor in whose occupation they are found to be, in consequence of improvements made by such proprietor or of the particular use to which such lands are put.

Calculation of rental.

91. The rent fixed in perpetuity on any land by the Deputy Collector under either of the two last preceding sections shall be considered to be the rental of such land for the purposes of the partition.

Rent may be redeemed.

92. Whenever the dwelling-house of one proprietor, with the offices, build-

ings and grounds immediately attached thereto, shall have been included in the separate estate of another proprietor, and the annual rent to be paid in perpetuity in respect of the land occupied thereby shall have been fixed by the Deputy Collector and stated in the paper of partition, the proprietor whose dwelling-house, offices, buildings and grounds have been included as aforesaid may apply to the Deputy Collector for permission to redeem the annual rent so fixed, and the Deputy Collector shall give such permission, unless he shall be of opinion that such redemption would endanger the safety of the land-revenue for the payment of which the separate estate in which such dwelling-house, offices, buildings and grounds have been included will be liable.

Deputy Collector to certify amount payable in redemption of rent.

93. If the Deputy Collector shall see no such reason to refuse his permission to the redemption being made, he shall certify the amount payable by such proprietor in redemption of such annual rent; and such amount shall be calculated and fixed by the Deputy Collector at ten per centum above the sum which would be required to purchase, at the market-prices then prevailing, so much stock of the Government loan which was last issued as would yield an annual amount of interest equal to the annual land-rent fixed by the Deputy Collector under section 89.

Such amount payable before possession of separate estates has been given.

94. The proprietor desiring to redeem the rent as aforesaid may pay to the Deputy Collector the amount so certified at any time before possession is given to the several proprietors of the separate estates allotted to each, as provided in section 123, but not after such possession has been given.

Notice of payment to be given, and land to be held rent-free.

95. On receipt of such payment, the Deputy Collector shall give notice to the proprietor in whose separate estate such land is situated that such payment has been made, and that the sum will be paid to him or to his authorized agent on application; and that, from the date on which possession as aforesaid may be given, the proprietor who has redeemed the rent of such land will be entitled to hold such land as a rent-free tenure secured against the proprietor of the estate and against any auction-purchaser at a sale for arrears of revenue, including the Government; and from such date the lands shall be so held as a rent-free tenure.

Collector to register rent-free tenure.

96. The Deputy Collector shall at the same time also give notice to the Collector of the district of the creation of such tenure; and the Collector of the district shall thereupon cause such tenure to be specially registered in the manner provided by section 42 of Act XI of 1859,[a] or by any similar law for the time being in force.

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[a] See Vol. I, p. 394.

Lots may be drawn for equal shares.

97. When two or more of the separate estates shall consist of the same proportions of the parent estate, the Deputy Collector may, if he thinks proper, direct the parties entitled thereto respectively to draw lots in his presence for the equal separate estates which have been formed by assignment of lands, unless the recorded proprietors of the equal shares shall agree among themselves as to the allotment of the equal separate estates and shall present a petition to that effect; or unless for any other reason the Deputy Collector shall, with the sanction of the Collector, think proper to assign the equal separate estates to the proprietors of the equal shares without causing lots to be drawn.

Order and method of drawing lots when aggregate of two or more shares equals one other share.

98. When the aggregate of two or more shares equals one other share, or equals the aggregate of two or more other shares, the Deputy Collector, with the sanction of the Collector, may cause such aggregate shares to be treated as one share for the purpose of determining by lots as aforesaid which portion of the parent estate shall be assigned to each proprietor as his separate estate;

and may decide which shares shall be formed into one aggregate share for the purpose of causing such lots to be drawn;

and may cause lots to be drawn in like manner as often as he shall think proper for such purpose.

And, after lots shall have been drawn once (or more than once if necessary) as aforesaid, the Deputy Collector shall proceed to divide the portion of the parent estate which has fallen by lot to each aggregate share among the proprietors of the different shares which were formed into such aggregate share for the purpose of drawing lots, and shall assign to every such proprietor his separate estate within such portion in such position as the Deputy Collector may think proper:

Provided that lots shall in no case be drawn until after full opportunity shall have been given to the proprietors to advance their objections in respect of the papers accepted as the basis of the partition and in respect of the assets of the different lands as stated in such papers, and until any such objections which may have been made shall have been disposed of.

Illustrations.

I.—The partition of a parent estate is being made into the following shares:—

8 annas.
4 annas.
3 annas.
1 anna.

For the purposes of drawing lots, the 4 annas, 3 annas and 1 anna share may be taken together, and considered to be an aggregate 8 annas share.

The Deputy Collector will divide the parent estate into two halves of equal value, and will then cause lots to be drawn, in order to determine which of the two halves shall be assigned to the proprietor of the integral 8 annas share, and which shall be divided among the proprietors of the 4 annas, 3 annas and 1 anna shares.

Subsequently, if necessary, the Deputy Collector may again cause lots to be drawn by the proprietor of the 4 annas share on the one hand, and the proprietors of the aggregate share made up by taking together the 3 annas share and the 1 anna share.

II.—The partition is being made of a parent estate into the following shares:—

6 annas.
4 annas.
3 annas.
2 annas.
1 anna.

Two tracts in the estate may first be marked off, the value of each being equivalent to a 6 annas share, and then, for the purpose of drawing lots in respect of the assignment of these two tracts, the 4 annas share and the 2 annas share may be taken together as an aggregate 6 annas share, and lots may be drawn between the proprietor of the aggregate 6 annas share so formed on the one hand, and the proprietor of the integral 6 annas share on the other.

One of the two 6 annas tracts having thus been finally assigned to the proprietor of the integral 6 annas share, the Deputy Collector will proceed to assign the rest of the estate among the remaining sharers, and he may again, for the purpose of causing lots to be drawn, mark off two tracts, the value of each of which shall be equivalent to 5 annas of the parent estate, and may cause lots to be drawn for these two tracts between the proprietors of the 4 annas share and the 1 anna share taken together as an aggregate 5 annas share on the one hand, and the proprietors of the 3 annas share and the 2 annas share taken together as another 5 annas share on the other.

Finally, their separate estates will be assigned to the proprietor of the 4 annas share and of the 1 anna share respectively, within the tract which fell to them jointly by lot; and their separate estates will be assigned to the proprietors of the 3 annas share and of the 2 annas share respectively, within the tract which fell to them jointly by lot.

Deputy Collector may require proprietors to attend or appoint agent for drawing lots.

99. The Deputy Collector may, by a notice served as provided in section 135, require any proprietor in respect of whose share lots are to be drawn as provided in either of the two last preceding sections to attend at the office of the Deputy Collector in person or by authorized agent at a time to be fixed by the Deputy Collector for the purpose of drawing lots;

and may similarly require the proprietors of any shares which he may have ordered to be formed into an aggregate share for the purpose of drawing lots, jointly to appoint an agent to draw lots on their joint behalf; and, if at the time fixed for drawing such lots such proprietors have failed to agree to any such joint appointment, or shall fail to cause the attendance of an agent

authorized to act jointly for all such proprietors, all such proprietors shall be deemed to have failed to comply with the Deputy Collector's requisition.

In default, Deputy Collector may appoint person to draw lots.

100. Whenever any proprietor or proprietors shall have failed to comply with a requisition of the Deputy Collecter under the last preceding section, the Deputy Collector may appoint a person to draw lots on behalf of such proprietor or proprietors.

Rules applicable to the Formation into separate Estates of Lands which are held by Proprietors in Severalty.

Joint petition may be presented for partition according to private division.

101. Whenever in any parent estate a division of the lands thereof has been made by private arrangement of the proprietors of such estate, and in accordance with such arrangement each proprietor is in possession of separate lands held in severalty as representing his interest in such parent estate, the joint application presented to the Collector by all the recorded proprietors of such estate as required by section 12 may be to the effect that a partition of such estate be made by assigning to each proprietor, or to two or more proprietors jointly, as his or their separate estate, the lands of which they are in separate possession in accordance with such arrangement, and also that each separate estate so formed be made liable for such portion of the entire land-revenue of the parent estate as was paid by the proprietor or proprietors thereof under the private arrangement aforesaid.

Partition according to private division to be referred to Collector.

102. The Deputy Collector who is appointed to carry out the partition in accordance with such application shall satisfy himself that the assets of each separate estate which it is proposed to form are sufficient to secure the payment of the annual amount of land-revenue for which it is proposed to make such separate estate liable; and, if the Deputy Collector be satisfied that in this respect, and with reference to all the circumstances of the case, the partition of the lands and the assessment of the revenue thereon may be made in the manner proposed without endangering the safety of the revenue, the Deputy Collector shall submit the case with his opinion thereon, and the reasons on which such opinion is founded, to the Collector, who may admit or reject the said application.

Effect of Collector's approval.

103. If the Collector admits the said application, such admission shall be deemed to be the Collector's approval of the general arrangement of the partition as provided in section 75, and the Deputy Collecter shall proceed to complete the partition accordingly.

Such partition

104. If the Deputy Collector who is appointed to carry out the partition

in accordance with a joint application under section 101 is not satisfied that the partition of the lands and the assessment of the revenue payable thereon can be made in the manner proposed without endangering the safety of the public revenue, or if the Collector rejects the application for such partition, the Deputy Collector shall refuse to make the same.

may be refused.

105. Whenever the proprietors of an estate are, in accordance with a private arrangement as aforesaid, respectively in possession of separate lands held in severalty as representing their respective interests in the estate, the joint application presented to the Collector by all the recorded proprietors of the estate, as required by section 12, may be to the effect that a partition of such estate be made by assigning to each proprietor, or to two or more proprietors jointly, as his or their separate estate, the lands of which they are in possession in accordance with such arrangement, and that the land-revenue for which the parent estate is liable may be apportioned among the separate estates so formed in accordance with the provisions of section 6.

Joint petition may be presented for partition of land in accordance with private division with proportional re-distribution of public revenue.

A joint application under this section may be made notwithstanding that a joint application under section 101 has been refused in respect of the same estate.

106. Whenever the Deputy Collector who is appointed to carry out a partition shall find that, in accordance with a private arrangement made by the proprietors of an estate, the proprietors respectively, or any of the proprietors, are in possession of separate lands held in severalty, as representing portions only of their respective interests in the parent estate, while other lands of the parent estate are held in common tenancy between such proprietors, a joint application as mentioned in section 12 shall not be necessary to authorize the Collector to make a partition of the estate, but the Deputy Collector shall allot to the separate estate of each proprietor the lands of which such proprietor is found to be in possession in severalty in accordance with such private arrangement.

Lands of which each proprietor is in possession to be allotted to him.

Lands held in the occupation of the several proprietors of an estate as sir, khámár or nij-jot, or under any other similar denomination, shall not be deemed to be lands held in severalty as representing portions of their respective interests in the parent estate within the meaning of this section, which applies only to cases in which there has been a *bonâ fide* division, by private arrangement among the proprietors, of lands held by tenants.

107. Notwithstanding anything contained in the last preceeding section, the Collector may cause any transfer of lands agreed to by the parties to be made from the possession of one proprietor to that of another.

Collector may cause transfer of lands agreed to by parties.

Rules applicable both to Lands held in common Tenancy and to Lands held in Severalty.

Rule as to places of worship.

108. Places of worship, burning-grounds and burial-grounds which have been held in common previous to the partition of an estate, and lands of which the proceeds have been assigned by the proprietors jointly for religious, charitable or public purposes, shall continue to be held in common, unless the proprietors shall otherwise agree amongst themselves, in which case they shall state in writing the agreement into which they have entered, and the Deputy Collector shall enter a note of the agreement in the paper of partition.

Rule as to tanks, wells, water-courses and embankments.

109. Tanks, wells, water-courses and embankments shall be considered as attached to the land for the benefit of which they were originally made.

In cases in which, from the extent, situation or construction of such works, it shall be found necessary that they should remain the joint property of the proprietors of two or more of the separate estates, the paper of partition shall specify, as far as the circumstances may admit, the extent to which the proprietors of each of such estates may make use of the same, and the proportion of the charges for repairs to be borne by them respectively.

Lands held rent-free not to be divided.

110. Whenever the Deputy Collector shall find in the parent estate lands which are actually held rent-free (whether the proprietors of the estate do or do not claim a right to receive rent from such lands), the Deputy Collector shall make no division or assignment of such lands among the separate estates, but shall specify in the partition-papers and proceedings that such lands are left appertaining jointly to all the separate estates which are formed out of the parent estate, in the proportion which each separate estate bears to the parent estate:

Provided that such lands or any of them may be allotted among the different separate estates with the consent of all the recorded proprietors of the parent estate, but not otherwise.

Rule as to permanent intermediate tenures.

111. Whenever the Deputy Collector shall find in the parent estate any lands which are held at a fixed rent on a patni or other permanent intermediate tenure falling within Exception 2 or Exception 3 of section 7, the Deputy Collector may either—

(1) assign the lands which are held on such tenure and the assets thereof entirely to one or more of the separate estates, the rental being calculated as provided in Exception 2 or in Exception 3 (as the case may be) of section 7; or

(2) leave such lands unassigned to any separate estate, and specify in the partition-paper and proceedings that the lands are left appertaining jointly to

all the separate estates which are formed out of the parent estate in the proportion which each separate estate bears to the parent estate.

In the event of such lands being so left undivided, the Deputy Collector shall assign to each separate estate such share of the rental of the tenure as shall bear the same proportion to the entire rental of the tenure, as the separate estate bears to the parent estate.

In dealing with a tenure under this section the Deputy Collector shall take into consideration the extent of the lands comprised in the tenure and all other circumstances of the case.

Lands held in common between proprietors of two or more estates how dealt with.

112. Whenever any lands are held in common between the proprietors of two or more estates, one of which is under partition in accordance with the provisions of this Act, the Deputy Collector shall first allot to the estate under partition a portion of such common lands of which the assets are in proportion to the interest which the proprietors of such estate hold in the said common lands; and all the provisions of this Act in respect of the allotment between the shareholders in one estate, of lands which are held jointly by such shareholders, shall, as far as possible, apply to the allotment of the proportionate share of such common lands to the estate under partition;

and, in respect of the service of notices, hearing of objections and all other procedure in view to such allotment, the proprietors of the estate under partition, and the proprietors of all other estates who have an interest in the said common lands, shall be deemed to be joint proprietors of a parent estate consisting only of the lands so held in common:

Provided that all expenses of any division of lands so held in common between the proprietors of two or more estates shall be deemed to be expenses of making the partition of the estate which is under partition, and shall be leviable as provided by this Act from the proprietors of such estate, and the proprietors of any other estate having an interest in such lands shall not be required to bear any portion of such expenses.

Proprietors other estates may be required to pay portion of expenses of partition.

113. Notwithstanding anything contained in the last preceding section, if it shall appear to the Commissioner, on the report of the Collector or otherwise, that the proceedings for such division have been unnecessarily delayed, and the cost of such division enhanced by obstacles vexatiously put in the way of the completion of such division by any proprietor of any estate other than that under partition, or by want of due diligence on the part of any such proprietor in carrying out any requisitions made upon him, the Commissioner may direct that such sum as he shall think fit shall be levied from every such proprietor who is responsible for such delay or additional cost, and every sum

so levied shall be taken in diminution of the amount payable by the proprietors of the estate under partition as costs of such partition.

Allotment of lands held in common to be sanctioned by Collector.

114. The allotment to the estate under partition of the proportionate share of the lands so held in common shall be submitted for the approval of the Collector, who may confirm, amend or reject the same, and, in the case of rejection, may make or direct to be made another allotment.

Portion of common lands assigned to estate under partition how dealt with.

115. As soon as the allotment to the estate under partition of a proportionate share of the said lands shall have been approved by the Collector, the lands so allotted shall be dealt with in every respect as if they were held in common tenancy by such of the proprietors of the estate under partition as were found to hold interests in the common lands.

Procedure in case of dispute as to whether lands form part of parent estate.

116. If a dispute or doubt shall be found to exist as to whether any lands form part of the parent estate, the Deputy Collector shall enquire into the fact of possession, and shall report his conclusions, with the reasons thereof, to the Collector; whereupon

the Collector may (whether the possession of disputed lands is with the proprietors of the parent estate or otherwise) order that the partition be struck off the file, and in that case no application for a partition of the said estate shall be admitted until the applicant can show that the dispute or doubt has been decided by a Court of competent jurisdiction, or has been amicably settled;

Procedure when Collector thinks that lands belong to parent estate.

or if the Collector shall find that possession of the disputed lands is with the proprietors of the parent estate, and if it shall appear to him that the claim of the other parties to the right in such lands is untenable, he may order that the partition shall proceed, and that the disputed lands be treated as part of the estate under partition:

Provided that no partition shall be made under this section, if such partition would involve the assignment to any separate estate of such a quantity of the disputed land that the removal of such land from such estate would, in the opinion of the Collector, endanger the safety of the land-revenue for which such estate would be liable after the partition.

Procedure when partition completed and proprietor of estate dispossessed by order of competent Court.

117. If, after a partition has been completed in accordance with an order passed by the Collector under clause 3 of the last preceding section, the proprietor of any separate estate shall be dispossessed by a decree of a Court of competent jurisdiction of any lands which may have been assigned to his estate by the partition, such proprietor shall not be entitled to claim any modification of the partition (which shall hold good), but shall be entitled to recover from the proprietor of the other separate estates formed by the partition such

compensation as may be fair and equitable, having regard to the reduction in the proportionate value of his separate estate which is caused by such dispossession;

and such compensation may be recovered in a Court of competent jurisdiction from the proprietors of those separate estates on which a proportionate share of the total loss caused by the order of dispossession does not fall.

PART IX.

Of the Procedure before the Commissioner up to the Completion of the Partition.

118. If no appeal or objection shall be presented within the time allowed by section 84, the Commissioner may proceed to consider the case without issue of any notice, and may confirm the partition made by the Collector.

When Commissioner may consider case without notice.

119. If it shall appear to the Commissioner that the proceedings of the Collector should be amended, or if a petition of appeal or an objection shall have been presented within the time allowed by section 84, the Commissioner shall fix a day for hearing and disposing of the case, and shall cause a notification of the same to be published and a notice of the same to be posted up in his own office.

Commissioner to fix day for hearing case.

120. On the day so fixed, which shall not be less than thirty days after the publication of the said notification at the office of the Collector, or on any subsequent day to which the hearing of the case may extend, or on any subsequent day to which the hearing may have been postponed by a notice published in his own office, the Commissioner shall, after hearing and disposing of all objections, and calling for any further information which may be necessary, either confirm the partition as made by the Collector or amend the same, or return the papers of the partition to the Collector for any changes the Commissioner may think proper to be made.

Commissioner to confirm partition, or amend or return paper.

If the partition is returned to the Collector for amendment, the Collector shall proceed to make the said amendments or to cause them to be made in the same manner as if he had himself passed such orders on a partition submitted to him for approval by a Deputy Collector.

121. The Commissioner may, before confirming a partition, return the papers for amendment or enquiry as often as he shall think fit, and as often as he shall so return them the procedure prescribed in the three last preceding sections shall be followed.

Commissioner may return papers for amendment or enquiry.

Procedure of Collector on order of Commissioner or of Board on appeal.

122. After the expiration of not less than sixty days from the date of the order of the Commissioner confirming a partition, or, if an appeal has been preferred to the Board, or if any proceedings in respect of the partition be pending before the Board, then on receipt of the final order of the Board determining that the partition as sanctioned by the Commissioner shall not be disturbed, the Collector shall cause to be published in his office, and in some conspicuous place in each of the estates separately constituted by such order, a notice that the partition has been finally confirmed as it was sanctioned by the Commissioner, or with any amendments or alterations, as the case may be.

If the partition as finally sanctioned involves any amendments which may conveniently be made on the extracts of the partition-paper and on any maps which have been prepared and delivered or offered by notice to the recorded proprietors as required by section 79 or section 85, the Collector shall cause a notice to be served on every recorded proprietor whose estate is affected by such amendments requiring him to produce such extracts and maps in order that such amendments may be noted on them;

and, if the alterations made in the partition as finally sanctioned be such as to make it desirable to prepare fresh extracts and maps as aforesaid, the Collector shall cause such fresh extracts and maps to be prepared; and shall cause a notice to be served on each proprietor declaring the extract and map which was furnished or offered to him under section 79 or section 85, as the case may be, to be cancelled, and requiring him to take out of the Collector's office the fresh extract and map which have been prepared.

Procedure in giving possession of separate estates.

123. The Collector shall then proceed to give the several proprietors possession of the separate estates allotted to each, and, if necessary, may require the assistance of the Magistrate in giving such possession;

and shall cause to be served on every recorded proprietor of a separate estate a notice informing him that from the date specified in such notice the separate estate assigned to him (as described in the extract from the partition-paper prepared and delivered or offered to him under section 79, section 85 or the last preceding section, as the case may be) will be deemed to be separated from the parent estate, and to be separately liable for the amount of land-revenue specified in such notice, and calling upon him to enter into a separate engagement for the payment of such revenue.

Date specified in notice under preceding section.

124. The date specified in such notice shall not be more than three months after the proprietors have been put in possession of their respective separate estates as herein provided.

Each separate

125. From the date specified in such notice, each separate estate shall be

borne on the revenue-roll and general register of the Collector as a distinct estate separately liable for the amount of land-revenue assessed upon it under this Act, and shall be so liable, whether the proprietor have executed an agreement for the payment of the amount of land-revenue so assessed upon the said estate, or whether he shall have failed to execute such agreement.

estate to be borne on revenue roll as separately liable for revenue assessed upon it.

126. The Collector may direct the construction of such boundary-marks as he may think proper to distinguish the lands of each separate estate, and the cost of such boundary-marks shall be deemed to be expenses of the partition.

Collector may direct construction of boundary-marks.

Boundary-marks erected under this Act shall be assigned to zamindárs, or to zamindárs jointly with tenure-holders, for preservation, as provided in the second clause of section 29 of the Bengal Survey Act, 1875,[a] and after they have been so assigned, the provisions of sections 19, 20 and 52 to 57 (both inclusive) of the said Act shall apply to such boundary-marks.

Ben. V of 1875.

PART X.

MISCELLANEOUS.

127. The Deputy Collector, with the consent of all the parties concerned, may refer to arbitration any point arising in the course of a partition; and the provisions of sections 65 and 67 shall, as far as possible, be applicable to such references.

Any point may be referred to arbitration.

128. If any proprietor of an estate held in common tenancy and brought under partition in accordance with the provisions of this Act shall have given his share or a portion of it in patni or other tenure or lease, such tenure or lease shall hold good, as regards the lands finally allotted to the share of the lessor, and only as to such lands.

Case of proprietor who has created tenure.

Illustrations.

I.—A, the proprietor of a quarter share in a joint undivided estate held in common tenancy, gives to B a patni tenure of the whole of his interest in the estate, entitling B, as long as such estate is held in common tenancy, to collect one-fourth of the rent payable by every raiyat on the estate;

Partition of the said estate is made under this Act, and certain specific lands are assigned to A as his separate estate.

B will become patnidár of the entire separate estate which has been assigned to A, and will be entitled to collect the whole of the rents from the raiyats on that estate.

II.—A, the proprietor of a quarter share in a joint undivided estate held in common tenancy, gives to B a patni tenure of one-half of his share in the estate, entitling B, as long

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[a] See *supra*, p. 237.

as such estate is held in common tenancy, to collect one-eighth of the rent payable by every raiyat on the estate.

Partition of the estate is made under the Act, and certain specific lands are assigned to A as his separate estate.

B will become patnidár of one-half of A's separate estate, and will hold his patni in common tenancy with the half of A's interest which A has not given in patni, so that B will be entitled to collect one-half of the rent payable by every raiyat on A's estate, and A will be entitled to collect the other half.

Two estates may be united.

129. If two or more estates shall come into the possession of one proprietor or of the same body of proprietors, such proprietor or body of proprietors, after being recorded as proprietors, may apply to have such estates united, and to hold them as a single estate.

Application for union how made, and how dealt with.

130. Such application shall be made in writing to the Collector, and the Collector shall, not less than thirty days after the issue of a notification of such application (provided he see no objection), comply with the same, and cause the necessary entries to be made in the records of his office, and shall report the case to the Commissioner.

Cause of sale of separate estate for arrears to be ascertained.

131. Whenever any separate estate created under this Act shall fall in arrear so as to require a sale of the land for the discharge of the arrear at any period within twelve years of the date of the confirmation of the partition, the Collector shall, if possible, ascertain the cause of the estate having fallen into arrear, and shall enquire whether such arrear has been caused by any fraudulent or erroneous allotment of the assessment or assignment of lands at the time of the partition, and shall make a report upon the case to the Commissioner for such action as the Commissioner may think proper.

When Lieutenant-Governor may order new allotment of land-revenue.

132. If it shall be proved to the satisfaction of the Lieutenant-Governor at any time within twelve years from the date of the final confirmation of a partition by the Commissioner or by the Board, as the case may be, that through any fraud or error at the time of making the partition the assets of the lands assigned to any separate estate were not in proportion to the amount of land-revenue for which such estate was made liable, or that the amount of land-revenue assessed on any separate estate was not in proportion to the assets of the lands assigned to such estate, the Lieutenant-Governor may order a new allotment of the land-revenue upon the separate estates in accordance with the principles prescribed in this Act, on an estimate of the assets of each such estate as they stood at the time of the partition, such estimate being made on such evidence and information as may be procurable respecting the same.

Under-assessed estates to refund to over-

133. Whenever the Lieutenant-Governor shall pass an order for the re-allotment of the land-revenue on any separate estate under the last preced-

ing section, the Lieutenant-Governor may direct that the proprietors whose estates are found to have been under-assessed shall, for each year during which they have held possession of the separate estates, be required to pay to the recorded proprietors of the estates which have been over-assessed a sum equal to the annual amount in which the latter shall be found to have been over-assessed, and in default of payment the amount shall be leviable as provided in section 138. assessed estates.

No order passed by the Lieutenant-Governor under this section shall be liable to be contested in any Court.

134. Every notification required to be published in and by this Act shall, unless it is otherwise specially directed, be published by posting up copies of the same at the office of the Collector, and of the Deputy Collector who is making or has made the partition, at the mal-kachahri or mal-kachahris (if any) of the proprietors of the parent estate, and at one or more of the principal villages on the said estate. Publication of notifications under Act.

135. Every notice in and by this Act required to be served on any person may be served— Service of notice.

(1) by delivering the same to the person to whom it is directed,
or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person usually resides,
or by delivering the said notice to a general agent of the person to whom such notice is directed, or to any person who has been appointed in that behalf, or who has been appointed an agent of the person to whom the notice is directed for the general purposes of any partition under this Act; or

(2) by sending a registered letter containing such notice directed to the said person at his usual place of abode or to the place where he may be known to be residing; or

(3) by posting a copy of the notice at any mal-kachahri of the person to whom the notice is directed,
or, if no such mal-kachahri be found, and if the notice cannot be served in any of the other modes mentioned in this section, on some conspicuous place on the estate to which such notice relates.

In all cases where two or more persons are joint applicants for the separation of an estate to be held by them jointly as a separate estate, service of notice under this section on any one such joint applicant shall be deemed to be good and sufficient service on each and all of such joint applicants.

136. Provided the directions of this Act be in substance and effect complied with, no proceedings under this Act shall be affected by reason of any mistake Proceedings under Act not affected

by mistake or misdescription.

or by reason of any other informality, unless any person has suffered, or is in danger of suffering, material injury in consequence of such mistake or informality;

and no proceedings under this Act shall be affected by reason of the omission to issue any notification required by this Act, or to serve any notice on any person whose name is not recorded on the Collector's registers as proprietor of the estate in respect of which the notice is required to be served.

Fine for non-compliance with notice or requisition.

137. If any proprietor or other person shall fail to comply, within the time fixed by a notice served on him as by this Act provided, with any requisition made upon him under this Act by the Collector or Deputy Collector, the Collector or Deputy Collector may impose upon him such daily fine as he may think fit, not exceeding fifty rupees;

and such fine shall be payable daily until the requisition is complied with;

and the Collector or Deputy Collector may proceed from time to time to levy the amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending:

Provided that, whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner, and no further levy in respect of such fine shall be made otherwise than by authority of the Commissioner.

Fees, &c., deemed to be demands.

138. Except as herein expressly otherwise provided, all fees, fines, costs and other sums ordered to be paid by any person under this Act shall be deemed to be demands.[a]

Power of Collector to enforce attendance of witnesses.

139. For the purpose of any enquiry under this Act the Collector and Deputy Collector shall, in addition to every power conferred specially by this Act, have power to summon and enforce the attendance of witnesses, to examine witnesses and to compel the production of documents, by the same means (as far as may be), and in the same manner, as is provided in the case of a Court under the Code of Civil Procedure.[b] XIV of 1882.

Powers and functions assigned to Deputy Collector may be exercised by Collector.

140. All powers and functions which are assigned by this Act to a Deputy Collector may be exercised and discharged by the Collector; and whenever it is provided by this Act that any act done, or order made, by a Deputy Collector shall require the sanction of the Collector, or shall be appealable to the Collector, if such act shall have been done or such order shall have been made by the Collector, it shall be deemed to have been sanctioned by the Collector, or to have been confirmed by the Collector in appeal, as the case may be.

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[a] The rest of s. 138, repealed by Ben. Act VII of 1880, s. 3, has been omitted. As to recovery of demands under s. 138 see ss 7 (3) and 8 of that Act, *infra*, pp. 517, 518.

[b] See Act XIV of 1882, s. 2 and Chaps. XIV and XV, in General Acts, 1882—84, pp. 32, 73, *et seq.*

141. The Lieutenant-Governor may vest any Collector or Deputy Collector with all or any of the powers which, under the provisions of any law for the time being in force, might be exercised by them respectively, or might be conferred on them respectively, if they were making a settlement of the parent estate.

Government may vest Collector or Deputy Collector with certain powers.

Such powers may be conferred either generally in respect of all estates in the partition of which the Collector or Deputy Collector may at any time and in any district be engaged, or specially in respect of any particular estate.

142. An appeal, if presented within one month from the date of the order appealed against, shall lie to the Collector against every order of a Deputy Collector—

Appeal to Collector.

(*a*) directing, under section 41, by whom the costs of an enquiry held in consequence of an objection preferred shall be paid;

(*b*) accepting or adopting any papers under section 63 for the purposes of a partition;

(*c*) refusing, under section 68, to confirm a partition made by the parties or by arbitrators;

(*d*) fixing, under section 89, the limits of land and the rent to be paid for it in perpetuity;

(*e*) refusing, under section 104, to make a partition as applied for by the joint applicants;

(*f*) passed under section 110 in respect of lands held rent-free, or under section 111 in respect of lands included in a tenure;

(*g*) imposing a fine under section 137.

143. An appeal, if presented to the Commissioner, or to the Collector for transmission to the Commissioner, within one month from the date of the order appealed against, shall lie to the Commissioner against every order of the Collector (whether such order be passed by the Collector in the first instance, or in appeal from the order of a Deputy Collector)—

Appeal to Commissioner.

(*a*) having the effect of rejecting an application for the partition of an estate, or for the separation of a share, or of putting an end to proceedings for effecting a partition or separation after the application has been admitted;

(*b*) directing, under section 31, that an application for partition or separation be admitted;

(*c*) accepting or adopting any papers under section 63 for the purposes of a partition;

(*d*) refusing, under section 68, to confirm a partition made by the parties or by arbitrators;

(*e*) setting aside, amending or approving the general arrangement of the partition under section 75;

(*f*) approving, with or without amendment, a partition made by a Deputy Collector, or directing such partition to be amended or a fresh partition to be made, or making a fresh partition under section 81;

(*g*) fixing, under section 89, the limits of land and the rent to be paid for it in perpetuity;

(*h*) refusing, under section 102, to allow a partition to be made in accordance with an existing private division;

(*i*) passed under section 110 in respect of lands held rent-free, or under section 111 in respect of lands included in a tenure;

(*k*) approving or disallowing, under section 114, the allotment to the estate under partition of a portion of lands held in common tenancy between the proprietors of such estate and the proprietors of one or more other estates;

(*l*) passed under section 116 as to disputes or doubts regarding land;

(*m*) imposing or confirming the imposition of a fine under section 137;

(*n*) imposing any fine amounting to more than fifty rupees, or directing the payment of any costs amounting to more than fifty rupees.

Appeal to Board.

144. An appeal, if presented to the Board, or to the Commissioner for transmission to the Board, within six weeks from the date of the order appealed against, shall lie to the Board against every order of the Commissioner which confirms, modifies or reverses any order of the Collector—

(*a*) having the effect of rejecting an application for the partition of an estate, or for the separation of a share, or of putting an end to proceedings for effecting a partition or separation after the application has been admitted;

(*b*) directing, under section 31, that an application for partition or separation be admitted;

(*c*) accepting or adopting any papers under section 63 for the purposes of a partition;

(*d*) approving or disallowing, under section 114, the allotment to the estate under partition of a portion of lands held in common tenancy between the proprietors of such estate and the proprietors of one or more other estates;

and against every order of the Commissioner—

(*e*) directing, under section 40, that any proprietor shall pay more than his

proportionate share of the expenses of a partition, when the excess which he is ordered to pay exceeds five hundred rupees;

(*f*) directing, under section 113, that any sum shall be paid by the proprietor of an estate other than the estate under partition, when such sum exceeds five hundred rupees;

(*g*) confirming, under section 118 or section 120, or amending or setting aside under section 120, a partition as made by the Collector;

(*h*) imposing or confirming the imposition of any fine amounting to five hundred rupees, or ordering or confirming an order directing the payment of any costs amounting to more than five hundred rupees.

No appeal against order passed under Act.

145. Except as provided in the three last preceding sections, no appeal shall lie as of right against any order passed under this Act by any officer; but the proceedings and orders of every Deputy Collector under this Act shall be subject to the supervision and control of the Collector; the proceedings and orders of every Deputy Collector and of the Collector to the supervision and control of the Commissioner; and the proceedings and orders of all revenue-officers to the supervision and control of the Board;

and any order passed and anything done under this Act may be modified, amended or reversed by the supervising and controlling authority at any time before possession of their respective separate estates has been given to the several proprietors as provided in section 123, but not after such possession has been given, except as provided in the next succeeding section.

Proceedings in giving possession may be set-aside within three months of date of giving possession.

146. Any proceedings of a revenue-officer connected with giving possession to the proprietors of their respective separate estates as provided in section 123 may be set aside or amended as above provided by any supervising and controlling revenue-authority:

Provided that such supervising and controlling authority shall, within three months of the date on which such possession may have been given, make an order to the effect that such proceedings are under the consideration of such authority.

Such order shall be communicated to the Collector of the district, who shall cause the same to be published by notification in the manner prescribed by section 134.

Orders as to costs on appeal.

147. The Commissioner and the Board may pass such orders as they shall think fit in respect of the payment of costs of any appeal which is made to them respectively under this Act.

Powers of officers exercising

148. If, in any case in which a Collector or other officer shall exercise jurisdiction under this Act, any person is guilty of the offence of giving or

jurisdiction under Act with regard to false evidence.

fabricating false evidence, or of forgery, as defined in the Indian Penal Code,[a] or of abetting any of those offences, such Collector or other officer shall have the same powers in respect of such offence, and of the person charged with committing the same, as are vested by the Code of Criminal Procedure, 1882,[b] in a Civil Court, when any such offence is committed before or against such Court, or when a document believed to be a forgery is given in evidence in any proceedings in such Court.

XLV of 1860.

X of 1882.

Orders of revenue-officer not liable to be set-aside by civil suit.

149. No order of a revenue-officer—

(*a*) refusing to allow a partition on the grounds mentioned in section 11;

(*b*) rejecting or directing to be amended an application under section 20;

(*c*) made under the first clause of section 32;

(*d*) made under Part IV, Part V, Part VI, Part VII, Part VIII (except as provided in the next succeeding section) or Part IX;

(*e*) imposing a fine;

(*f*) in respect of the payment of costs of any appeal under section 147,

shall be liable to be contested or set aside by a suit in any Court, or in any manner other than as is expressly provided in this Act.

When suit may be brought to set aside order of revenue-officer.

150. Notwithstanding anything contained in clause (*d*) of the last preceding section,

any person claiming a greater interest in any lands which were held in common tenancy between two or more estates than has been assigned to him by the order of a revenue-officer under section 112 or section 114;

and any person who is aggrieved by any order of a revenue-officer passed under section 116,

may bring a suit in a Court of competent jurisdiction to modify or set aside such orders of the revenue-officer.

Board to be guided by instructions of Lieutenant-Governor.

151. In the execution of the duties vested in the Board by this Act the Board shall be guided by such orders or instructions as they may from time to time receive from the Lieutenant-Governor.

Board may lay down rules.

152. The Board may, from time to time, make rules, not being inconsistent with this Act—

(*a*) to regulate the expenses of effecting partitions, or the amount of fees to be levied in respect of partitions, the allotment of the same among the proprietors, and the instalments in which, and the times at which, the same shall be levied under Part IV;

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[a] See Act XLV of 1860, ss. 191, 192, 463, in General Acts, 1834—76, 2nd Ed., pp. 284, 285, 347.

[b] See Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 212.

(*b*) to regulate the receipts, disbursements and management of any "Estates' Partition Fund" formed under section 45;

(*c*) to regulate the employment and remuneration of amins and other subordinate officers appointed under Part IV, to enable the officer making the partition to keep himself informed of the proceedings of such officers, and to exercise a proper control over them;

(*d*) to regulate the form in which the partition papers shall be framed under section 66 and section 77;

(*e*) and generally for the guidance of officers in conducting partitions under this Act.

SCHEDULE.

(*See section 2.*)

Number and year.	Subject or abbreviated title.	Extent of repeal.
Regulation XI of 1811 .	For extending period of revising jama on certain lands.	So much as has not been repealed.
Regulation XIX of 1814 .	Consolidating Regulations respecting Partition of Estates.	Ditto.
Act XX of 1836 . .	Quashing of Batwáras . . .	Ditto.
Act XI of 1838 . .	Remuneration of persons effecting a partition.	Ditto.

ACT No. IV OF 1878.

Received the Lieutenant-Governor's assent on the 10th April, 1878, and the Governor General's assent on the 4th May, 1878.

An Act to amend Bengal Act V of 1866.

WHEREAS it is expedient to amend Bengal Act V of 1866; It is enacted as follows:— Preamble.

1. To section 2 of the said Act the following clauses shall be added:— Addition to section 2 of Ben. Act V of 1866.

[See *supra*, p. 80.]

2. This Act shall come into force from the date[a] on which it may be published in the Calcutta Gazette with the assent of the Governor General. Commencement.

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[a] *i.e.*, the 15th May, 1878.

ACT No. V OF 1878.[a]

Received the Lieutenant-Governor's assent on the 10th April, 1878, and the Governor General's assent on the 16th May, 1878.

An Act to amend Bengal Act VII of 1876.

Preamble.

WHEREAS it is expedient to amend Bengal Act VII of 1876; It is enacted as follows:—

Clause substituted in section 55 of Ben. Act VII of 1876.

1. For the first clause of section 55 of the said Act the following shall be substituted:—

[See *supra*, p. 310.]

Commencement.

2. This Act shall come into force from the date[b] on which it may be published in the Calcutta Gazette with the assent of the Governor General.

ACT No. VII OF 1878.[c]

Received the Lieutenant-Governor's assent on the 1st May, 1878, and the Governor General's assent on the 3rd July, 1878.

An Act to consolidate and amend the law relating to the Excise-revenue in the Presidency of Fort William in Bengal.

Preamble.

WHEREAS it is expedient to consolidate and amend the laws relating to the manufacture, sale and possession of exciseable articles, and to the collection of the revenue derived therefrom; It is enacted as follows:—

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the Bengal Excise Act, 1878:

Extent.

2. It extends, save as is hereinafter expressly specified, to all the territories for the time being administered by the Lieutenant-Governor of Bengal,

Commencement.

and shall come into force from the date[d] on which it may be published in the Calcutta Gazette with the assent of the Governor General.

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[a] Ben. Act V of 1878 has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2; also in the Districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan, under s. 3 of the Scheduled Districts Act, 1874—see Vol. I, p. 678.

[b] *i.e.*, the 29th May, 1878.

[c] Ben. Act VII of 1878 has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2; also in the Districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan, under s. 3 of the Scheduled Districts Act, 1874—see Vol. I, p. 678; it has also been extended to Assam under s. 5 of the Scheduled Districts Act, 1874—see Appendix to Assam Supplement.

Ben. Acts IV of 1881 and I of 1883 are to be read with and taken as part of this Act—see s. 1 of each of those Acts, *infra*.

[d] *i.e.*, the 24th July, 1878.

3. The enactments specified in the schedule hereto annexed are hereby repealed to the extent mentioned in the third column thereof. Enactments repealed.

This repeal shall not revive any office, authority or thing abolished by any such enactment, or affect the validity of anything done or suffered, or any right, title, obligation or liability accrued before the commencement of this Act.

And all rules prescribed, appointments made, powers conferred, licenses granted and notifications published under any such enactment, and all other rules (if any) now in force and relating to the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, conferred, granted and published hereunder.

And all references made to any such enactment shall, as far as may be practicable, be deemed to be made to this Act.

And all proceedings now pending, which may have been commenced under any such enactment, shall be deemed to be commenced under this Act.

4. In this Act, unless there be something repugnant in the subject or context,— Interpretation-clause.

"Board" means the Board of Revenue for the provinces for the time being administered by the Lieutenant-Governor of Bengal: "Board."

"Collector" includes also a Deputy Collector or other revenue-officer in independent charge of the district, "Collector."

a Superintendent of Excise-revenue,

any covenanted or uncovenanted officer to whom the Collector may make over, with the previous sanction of the Commissioner (as he is hereby empowered to do), any of his powers or duties under this Act:

"Commissioner" means the Commissioner of a Revenue Division: "Commissioner."

"exciseable article" includes spirituous and fermented liquors and intoxicating drugs as defined by this Act: "Exciseable article."

[a]"foreign exciseable article" means any exciseable article manufactured or produced at any place beyond the limits of British India, or at any place in British India in which no duty of excise is levied upon the manufacture or production of such article:

"fermented liquor" includes— "Fermented liquor."

malt-liquor of all kinds;

tári, fresh or fermented;

pachwái, diluted or undiluted; and

any other intoxicating liquor which the Local Government may from time to time declare to be included in this definition:

[a] The definition of "foreign exciseable article" has been inserted by Ben. Act IV of 1881—see s. 3 of that Act, *infra*.

"Intoxicating drugs."

"intoxicating drugs" include—

gánja;

bháng or siddhi;

charas;

every preparation and admixture of any of the above;

any other intoxicating drug which the Local Government may from time to time declare to be included in this definition:

"Local Government."

"Local Government" means the Lieutenant-Governor of Bengal for the time being, or the person acting in that capacity:

"Section."

"section" means a section of this Act:

"Spirituous liquor."

"spirituous liquor" includes any spirituous liquor imported into India or manufactured in India by any process of distillation:

"Licensed vendor or manufacturer."

[a]"licensed vendor or manufacturer" means a vendor or manufacturer licensed under this Act:

"Tari."

[a]"tári" means the sap of any kind of palm tree:

"The town of Calcutta."

"the town of Calcutta" includes all places within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal.

Calcutta a separate district.

For the purposes of this Act the town of Calcutta shall be deemed to be a separate district.

PART II.

Manufacture of Exciseable Articles.

Manufacture and cultivation prohibited.

5. No person shall manufacture any exciseable article, or cultivate plants from which intoxicating drugs are produced, without a license from the Collector.

Construction of brewery prohibited.

6. No person shall construct or work a brewery without a license from the Collector.

European distilleries not to be constructed or worked without license.

7. No person shall construct or work a distillery after the manner in which distilleries are constructed and worked in Europe without a license under the signature of the Collector of the district in which such distillery is situated, or, in case the distillery is within twenty miles of Calcutta, or such other distance less than twenty miles as may from time to time be prescribed by the Local Government, without a license under the signature of the Collector of Calcutta.

Board may make rules as European distilleries and breweries.

8. The Board may from time to time make rules relative to—

the granting of licenses under the two last preceding sections,

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[a] The definitions of "licensed vendor or manufacturer" and "tári" have been inserted by Ben. Act I of 1883—see s. 2 of that Act, *infra*.

the management of distilleries and breweries established under the said sections, and

the issue of spirituous and fermented liquors therefrom.

9. The Collector, with the sanction of the Board, may—

Collectors may establish Native distilleries for spirituous liquors.

establish, at any place within his jurisdiction, a distillery in which spirituous liquors may be manufactured after Native processes,

from time to time fix limits within which no such liquors, unless manufactured at the said distillery, shall be introduced or sold without a pass from the Collector, and within which no stills shall be constructed or worked, or spirituous liquors manufactured, except at the said distillery,

discontinue any distillery so established.

[a]Nothing in this section, or in section 7, shall be held to debar the Collector, with the sanction of the Board, from granting a license for the manufacture of spirituous liquors after native processes in a distillery established under section 7.[a]

10. The Board may from time to time make rules relative to—

Board may prescribe rules for Native distilleries.

the management of distilleries established under the last preceding section,

the conditions on which spirituous liquors may be manufactured in the said distilleries, and

the issue of such liquors therefrom.

10A.[b] No person shall have in his possession a still for the manufacture of spirituous liquors for which he has not obtained a license.

Possession of unlicensed still prohibited.

PART III.

Sale and Possession of Exciseable Articles.

11. No person shall sell any exciseable article without a license[c] from the Collector.

Exciseable articles not to be sold without license.

12. Persons taking out licenses for the wholesale vend of spirituous and fermented liquors shall pay, for every such license, such sum as the Board from time to time prescribes.

Fee for wholesale license.

The license shall be current only in the district in which it is granted.

But travelling merchants may obtain, under such rules and restrictions as the Board from time to time may prescribe, a general license, authorizing them

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[a-a] These words in s. 9 have been substituted for the original words by Ben. Act IV of 1881—see s. 4 of that Act, *infra*.

[b] S. 10A has been inserted by Ben. Act I of 1883—see s. 3 of that Act, *infra*.

[c] A license may not be granted in the town of Calcutta except upon production of a certificate from the Commissioner of Police—see Ben. Act IV of 1866, s. 36, *supra*, p. 67.

to sell by wholesale in any district which they may visit in the course of their travel, without taking out a fresh license for that district.

Fee for retail license.

13. Persons taking out licenses for the retail-sale of exciseable articles, or for the establishment of outstills, and the sale of the liquor manufactured therein, shall pay for every such license such fee or duty as may from time to time be fixed with the sanction of the Board, or a fee or duty regulated in such manner and in accordance with such rules as the Board may prescribe;

and such fee or duty shall be specified in the license, and shall be payable at such periods as the Board may direct.

Local Government may suspend operation of provisions relating to tári.

14. The Local Government may suspend the operation of all the provisions relating to tári contained in this Act with respect to any district in which the consumption of tári in a fermented state is inconsiderable; and thereupon tári may be possessed and sold without license in any such district, notwithstanding anything contained in this Act.

Wholesale and retail sale.

15. [a]The sale of any exciseable article in a larger quantity than is specified below shall be deemed to be a sale by wholesale, and the sale of any other quantity shall be deemed to be a retail sale: provided that the Board may from time to time by rule fix any larger quantity as the limit for a retail sale of any exciseable article:

spirituous or fermented liquors, imported by sea, two imperial gallons or twelve reputed quart bottles:

other spirituous or fermented liquors, excepting tári and pachwai, one seer, or one reputed quart bottle:

tári or pachwai, four seers;[a]

gánja, sidhi or bháng, or any preparation or admixture of the same, one quarter of a ser;

charas or any preparation or admixture of the same, five tolas weight.

No licensed wholesale vendor shall sell by retail, and no licensed retail vendor shall sell by wholesale.

Sale of assortment.

Under this section a sale of an assortment of spirituous or fermented liquors in the quantity specified above, or in less quantity, by a licensed wholesale vendor, and a similar sale of such liquors in greater quantity than is specified above by a licensed retail vendor, are prohibited.

The Board may by rule define what shall be held to be an assortment for the purposes of this section.

The Board may also determine what shall be a retail sale of any article

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[a-a] These words in s. 15 have been substituted for the original words by Ben. Act I of 1888—see s. 4 of that Act, *infra*.

from time to time declared by the Local Government to be included in the definition of intoxicating drugs under this Act.

Restriction of sale of gánja and bháng.

16. No cultivator of the plants producing gánja or bháng shall sell such plants, or any gánja or bháng produced therefrom, to any one other than a person duly authorized to purchase the same by pass or license from the Collector.

Illegal possession.

17.[a] No person, not being a licensed manufacturer or vendor or a person duly authorized to supply licensed vendors, shall have in his possession a greater quantity of any exciseable article than that specified in section 15, or than the quantity which may be fixed by the Board under the said section as the limit for a retail sale of any such article.

Prohibition respecting certain foreign exciseable articles.

17A.[b] The Board, with the sanction of the Local Government, may, from time to time, declare by a notification published in the Calcutta Gazette, in respect of any foreign exciseable article, except spirituous and fermented liquors imported by sea and kept only for private use and consumption and not for sale—

(1) that the possession of such foreign exciseable article is absolutely prohibited in any quantity whatsoever in the districts or tracts specified in the notification, or

(2) that such possession shall be limited to specified quantities unless the Collector or other officer duly authorized in that behalf shall grant a license for the possession of a larger quantity of such article. The Board may, from time to time, if it think fit, fix the fee or duty payable for such license.

PART IV.

Duties.

Removal of spirituous liquor from distilleries.

18. No spirituous liquor shall be removed from any distillery, or the warehouses connected therewith, upon which duty has not been paid [c]at such rate as the Local Government may from time to time fix in respect of such spirituous liquor,[c] or until a bond has been executed for such duty.

For all spirituous liquor removed upon payment of duty or under bond, passes shall be issued by the Collector, which shall specify—

the quantity and description of the liquor,

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[a] This section has been substituted for the original s. 17 by Ben. Act I of 1883—see s. 5 of that Act, *infra*.

[b] S. 17A has been inserted by Ben. Act IV of 1881—see s. 5 of that Act, *infra*.

[c-c] These words in s. 18 have been substituted for the original words by Act IX of 1885, s. 3; but see saving in that section as to legislative powers of the Lieutenant-Governor of Bengal in Council. As to saving of duty fixed under s. 6 of the Indian Tariff Act, 1882, before the 29th May, 1885, see Act IX of 1885, s. 4, in General Acts, 1885—88, p. 5.

the place of its destination,
the amount of the duty,
the person to whom it is consigned, and
whether the duty has been paid or secured by bond, and
the period for which the pass shall be current.

Spirituous liquors from foreign territory subject to duty.

19. Spirituous liquor manufactured at any place in India beyond the limits of British India [a]or at any place in British India in which no duty of excise is leviable upon its manufacture[a] shall, on passing the limits of the territories to which this Act applies, be charged with the duty prescribed for spirituous liquor in the last preceding section.

Rules for the importation and bonding of exciseable articles manufactured beyond limits of Act.

19A.[b] In respect of exciseable articles manufactured in any part of British India beyond the limits of the territory to which this Act extends, the Board may from time to time with the sanction of the Local Government frame rules for prescribing the conditions under which the said articles may be imported, and, where no duty has previously been paid on such articles, the conditions under which the same may be imported and bonded within such limits.

PART V.

Farm of Duties.

Collector, with sanction of Board, may farm out duties.

20. The Collector may, with the sanction of the Board, let in farm the duties leviable on the retail sale of exciseable articles or any of them in any district or division of a district.

Board may prescribe rules.

21. The Board may prescribe rules—
for the invitation and acceptance of tenders for such farms;
for the requisition of security for the due fulfilment of the engagements entered into by the farmers, and
as to the form and conditions of the lease.

Any breach of such conditions shall render the lease liable to annulment.

Farmer to make arrangements with local manufacturers and vendors.

22. When the duties leviable on any exciseable articles are let in farm, the farmer shall be at liberty to make his own arrangements with the manufacturers and vendors within the limits of his farm;

and all the fines hereinafter prescribed, for the unlawful manufacture, sale or possession of any such article, shall be incurred by all persons manufacturing, selling or possessing the same without license or authority from the farmer.

List of licenses to be filed.

23. Every such farmer shall file in the Collector's office a list of all the licenses granted by him, in such form as may be prescribed by the Board.

Restrictions

The Collector may, with the sanction of the Board, before entering into

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[a-a] These words in s. 19 have been inserted by Ben. Act IV of 1881—see s. 6 of that Act, *infra*.
[b] S. 19A has been inserted by Ben. Act I of 1883—see s. 6 of that Act, *infra*.

engagements for any such farm, make such reservations or restrictions with respect to the grant of licenses as he thinks fit. as to grant of licenses.

24. The Collector may, with the sanction of the Board, cancel any lease granted under this Act, or may, within the period of the lease, impose any new restriction on the farmer. Lease may be cancelled.

If a lease be cancelled for any cause other than a breach on the part of the farmer of the conditions of the lease, or if any reservation or restriction with respect to the grant of licenses be imposed within the period of the lease, the farmer shall be entitled to receive such compensation for any loss which he sustains thereby as the Board thinks fit. Compensation to farmers in certain cases.

25. Every farmer of excise-revenue may use the same means and processes for the recovery of any arrear of fee or duty due to him from any authorized vendor, as may be lawfully used by zamindárs and farmers of land for the recovery of arrears of rent due to them from their under-tenants. Recovery of arrears of fee or duty by farmers.

PART VI.

LICENSES.

26. Every person taking out a license under this Act shall execute a counterpart engagement in conformity with the tenor of the license *if required by the Collector to do so,* and shall give such security for the performance of his engagement, or make such deposit in lieu of security, as the Collector may require. Licensees to execute counterpart and furnish security.

27. Unless the Board shall otherwise specially direct, every license shall be granted for the term of one year, and, if continued to the holder thereof, shall be formally renewed from year to year. Duration and renewal of license.

But every person holding a license, who may intend not to renew it, shall give notice of his intention to the Collector at least fifteen days before the year expires.

If such notice be not given, and the license be not recalled by the Collector, the license held, and engagement entered into, by every such person shall remain in force for such time as the Collector may think fit, as if the said license and engagement had been formally renewed.

28. The Board may regulate the form and conditions of all licenses granted under this Act. Board may regulate form of license.

29. The Collector may cancel any license granted under this Act, if the fee or duty therein specified be not duly paid, or in case of a violation of any other condition thereof, or of the holder being convicted of a non-bailable criminal offence; License may be cancelled or recalled in certain cases.

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* These words in s. 26 have been inserted by Ben. Act I of 1883—see s 7 of that Act, *infra*.

and in such cases the holder shall not be entitled to a refund of any fee or duty payable under the license which he may have paid to the Collector in advance.

If the Collector desires to recall a license for any cause other than those above specified, he shall give fifteen days' previous notice [a]in writing[a] and remit a sum equal to the fee or duty for fifteen days, or, if [a]such[a] notice be not given, shall make such further compensation for default of notice as the Commissioner or Board directs.

In all such cases any fee or duty already paid in advance shall be refunded.

Surrender of license.

30. Any licensed vendor may surrender his license on giving fifteen days' previous notice [b]in writing[b] to the Collector, and paying a sum equal to the fee or duty for fifteen days in addition to the sum payable under the license.

PART VII.

Powers of Officers.

Collectors to have charge of excise-revenue.

31. The collection of the revenue arising from the manufacture and sale of exciseable articles shall be ordinarily under the charge of the district Collectors, who shall perform the duties connected therewith under the control and direction of the Commissioners and of the Board;

and all proceedings of the Collectors shall be subject, with or without appeal, to the revision of the Commissioners;

and all proceedings of the Collectors and Commissioners shall be similarly subject to the revision of the Board.

Local Government may appoint Superintendent of Excise.

32. The Local Government may appoint any person to be Superintendent of excise-revenue or of any branch of excise-revenue in any district or place; and the person so appointed shall exercise, in such district or place, or with respect to such branch of excise-revenue, all the powers and authority conferred by this Act on the Collector, and the Collector shall cease to exercise such powers and authority in such district or place, or with respect to such branch of excise-revenue, during the continuance of such appointment.

Local Government may appoint Commissioners of Excise.

33. The Local Government may also appoint a Commissioner or Commissioners for the control and direction of the officers having charge of the excise-revenue in any district or districts; and, when such appointment is made, the Commissioner of Excise shall exercise, within such district or districts, the powers and authority conferred by this Act on Commissioners of Revenue, and

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[a-a] These words in s. 29 have been inserted by Ben. Act I of 1883—see s. 8 of that Act, *infra*.

[b-b] These words in s. 30 have been inserted by Ben. Act I of 1883—see s. 9 of that Act, *infra*.

the Revenue Commissioner shall cease to exercise such powers and authority in such district or districts during the continuance of such appointment.

Collectors may appoint excise-officers.

34. Collectors may appoint such officers as are necessary for the collection of the excise-revenue and for the prevention of smuggling, and the officers so appointed shall, in addition to their ordinary designations, be styled excise-officers.

Board may regulate supply of tári and intoxicating drugs to licensed vendors.

35. The Board may regulate the mode in which tári shall be supplied to licensed vendors of the same; and may frame rules for the grant of licenses or passes to persons purchasing, transporting or storing gánja, bháng or siddhi, or charas for the supply of the licensed vendors of those drugs.

The Board may also place the cultivation, preparation and store of such drugs under such supervision as may be deemed necessary to secure the duty leviable thereon.

Recovery of arrears of fee or duty.

36. The Collector may recover any arrear of fee or duty due on account of any license granted under this Act,

or any arrear due from any farmer of excise-revenue,

by distress and sale of the moveable property of the person from whom the arrear is due, or of his surety, [a]or by the process described in Bengal Act VII of 1868.[a]

Power of excise-officers to enter and inspect licensed dealer's shop.

37. The Collector may, by a warrant under his hand, authorize any excise-officer above the rank of a peon to enter and inspect at all times, by day or by night, and may similarly authorize any excise-officer to enter and inspect, at all times by day, the shop or premises in which any licensed manufacturer or retail vendor carries on the manufacture of spirituous or fermented liquors, or the sale of exciseable articles.

Power to authorize arrest of persons carrying exciseable articles liable to confiscation,

38. The Collector may, by a warrant under his hand, authorize any excise-officer to stop and detain all persons carrying any exciseable articles liable to confiscation under section 75;

and any excise-officer so authorized may seize such articles, and arrest the person in possession of the same.

and to arrest unlicensed distillers, &c.,

39. Any excise-officer above the rank of a peon may arrest any person having in his possession an unlicensed still, or any exciseable article liable to confiscation under section 75, or engaged in the unlawful manufacture or sale of such exciseable articles,

and may seize such still with all such articles, and the materials used in such manufacture.

[a-a] These words in s. 36 have been repealed in Bengal by Ben. Act VII of 1880, s. 3. They do not extend to any part of Assam in which Bengal Act VII of 1868 (see *supra*, p. 116) is not in force —see Notification No. 174, dated 13th February, 1879, in Appendix to Assam Supplement. As to recovery of demands under s. 36, see ss. 7 (*3*) and 8 of Ben. Act VII of 1880, *infra*, pp. 517, 518.

and to search on information of illicit manufacture or possession.

40. Whenever any excise-officer above the rank of a peon has reason to believe, from information given by any person (which information shall be taken down in writing),

that any exciseable articles are unlawfully manufactured;

or that any exciseable articles, liable to confiscation under section 75, are kept or concealed in any house, boat or other place,

such officer may, but always in the presence of an officer of police not being under the grade of a corporal or head constable, enter into any such house, boat or place;

and, in case of resistance, may break open any door, and force and remove any other obstacle to such entry;

and may seize and carry away all stills and materials used in such manufacture and all such exciseable articles;

and may also arrest the occupier of the house, boat or place, with all other persons concerned in the manufacture of such articles, or in the keeping and concealing of the same.

Officers of police, customs and revenue departments may be vested with same powers as excise-officers.

41. The Local Government may confer on the officers of the police, customs and revenue departments, or any of them, the powers given to excise-officers by the two last preceding sections with respect to the seizure of, and search for, exciseable articles and the arrest of persons in possession thereof.

All officers so empowered shall be deemed to be excise-officers within the meaning of this Act.

Similar powers to be exercised by police-officers in Calcutta.

42. The said powers may, in the town of Calcutta, also be exercised by any police-officers specially selected by the Commissioner of Police for such purpose;

and the powers which are conferred upon the Collector by this Act, as regards the issue of warrants directed to excise-officers, may also be exercised by the Commissioner of Police for the said town in respect of the issue of warrants directed to police-officers selected as aforesaid;

Provided that the Collector shall not issue a warrant directed to a police-officer, nor shall the Commissioner of Police issue a warrant directed to an excise-officer.

Power to arrest persons drinking, and seize liquors drunk, on chemist's premises.

43. Any excise or police-officer above the rank of peon or constable, who has reason to believe that any chemist, druggist, apothecary or keeper of a dispensary within the town or the suburbs of Calcutta, or in Howrah, allows, between sunset and sunrise, spirituous or fermented liquors which have not been *bonâ fide* medicated to be drunk on his business premises by any person not employed in his business,

may enter upon such premises, and seize and carry away such liquors,

and, in case of resistance, break open any door and force and remove any other obstacle to such entry or seizure,

and arrest and detain the owner or occupier of the said premises, with all parties concerned in such unlawful drinking.

Report of arrest, seizure or search and taking person arrested to Magistrate.

44. Whenever an excise-officer makes any arrest, seizure or search under this Act, he shall, within twenty-four hours thereafter, make a full report of all the particulars of the same to his official superior, and, unless acting under the warrant of the Collector, shall carry the person arrested, or the article seized, with all convenient despatch, to a Magistrate, or, if the arrest, seizure or search has been made in the town of Calcutta, to a Presidency Magistrate.

Police-officer in Calcutta to report to Commissioner of Police.

45. Whenever any police-officer in the town of Calcutta makes any arrest, seizure or search under this Act, he shall, within twenty-four hours thereafter, make a full report of all the particulars to the Commissioner of Police, and shall carry the person arrested, or the article seized, with all convenient despatch, to a Presidency Magistrate;

and the Commissioner of Police shall at once inform the Collector of the fact of the arrest or seizure, and of the circumstances of the case.

Collector may issue warrant of arrest in certain cases.

46. The Collector may issue his warrant for the arrest of any person whom he may have reason to believe, either from information in writing or from the proceedings in any other case, to be engaged in the unlawful sale of exciseable articles, or to have in his possession any such articles liable to confiscation under section 75.

Collector may issue search-warrant.

47. The Collector may issue his warrant for the search of any house, boat or other place in which he may have reason to believe that exciseable articles are unlawfully manufactured, or that any such articles liable to confiscation under this Act are kept or concealed.

Such warrant may be executed by any officer, not being under the rank of a corporal or head constable, in the manner prescribed in section 40.

Procedure after arrest or seizure.

48. Whenever any person is arrested, or any articles are seized, under the warrant of a Collector, the Collector, after such enquiry as he thinks necessary, shall send the person arrested or the article seized to a Magistrate, or, if the arrest or seizure has been made in the town of Calcutta, to a Presidency Magistrate, or shall order the immediate discharge of such person, or the release of such articles.

Cases in which summons to issue.

49. Every such Magistrate shall issue a summons requiring the attendance of the person accused in all cases other than those of persons sent in custody by a Collector or excise-officer.

Seizure and

50. Any exciseable articles sold in contravention of the provisions of this

disposal of exciseable articles unlawfully sold.

Act, or in breach of any of the conditions of a license granted under this Act, may be seized at the time of the sale and brought before every such Magistrate.

As soon as the case is adjudicated, they shall be restored to the person who may have purchased them or disposed of as the Magistrate may direct.

Search for articles concealed in zanáná.

51. Where there is ground to suspect that exciseable articles are unlawfully concealed in any zanáná, the officer charged with the execution of a warrant shall, except in the town of Calcutta, follow the provisions of sections 48, 52 and 103 of the Code of Criminal Procedure, 1882,[a] and, in the said town, the provisions of sections 164, 165 and 166 of the Presidency Magistrates Act.[b] X of 1882. IV of 1877.

Police-officers to assist.

52. All police-officers are required to aid excise-officers in the due execution of this Act, upon notice given or request made by such officers.

PART VIII.

PENALTIES.

For unlicensed manufacture or sale of exciseable articles.

53. Whoever manufactures or sells any exciseable article without a license shall be liable to a fine not exceeding five hundred rupees for every such manufacture or sale.

[c]Nothing contained in the first clause of this section or in section 11 applies to the arrangements under which tári is supplied to licensed retail vendors, or to the sale of tári or of any preparation of the same, when supplied or used for the manufacture of gur or molasses,[c]

or to the sale of any imported spirituous or fermented liquors purchased by any person for his private use, and so disposed of upon such person quitting a station or after his decease.

Unlicensed cultivation of plants producing intoxicating drugs, and abetment of same.

54. Whoever, without a license from the Collector, cultivates plants from which intoxicating drugs are produced, or in any way promotes such illegal cultivation, shall be liable to a fine not exceeding five hundred rupees, and the plant so cultivated shall be liable to seizure and confiscation.

Constructing or working distillery or brewery without license.

55. Whoever constructs or works a distillery after the European method, or a brewery, without a license from the Collector, shall be liable for every such offence to a fine not exceeding one thousand rupees;

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[a] See Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

[b] The Presidency Magistrates Act was (with the exception of s. 57) repealed by Act X of 1882—but see s. 3 of the latter Act and ss. 48, 52 and 103 of the same, which correspond to ss. 164, 165 and 166 of the Presidency Magistrates Act.

[c-c] These words in s. 53 have been substituted for the original words by Ben. Act I of 1883—see s. 10 of that Act, *infra*.

and all liquors manufactured at any such distillery or brewery, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

Contravention of rules in respect of distillery or brewery.

56. Every proprietor or manager of a licensed distillery constructed and worked after the European method, or of a brewery, who wilfully contravenes any rule made by the Board under section 8, shall be liable for every such offence to a fine not exceeding two hundred rupees.

Illegal removal of spirituous or fermented liquors from European distillery or from brewery.

57. Whoever removes, or attempts to remove, from any licensed distillery constructed and worked after the European method, or from any brewery, any spirituous or fermented liquors upon which the duty has not been paid, or for the duty on which a bond has not been executed, or any such liquors for which the Collector has not issued a pass, or exceeding the quantity for which a pass has been issued, shall be liable for every such offence to a fine not exceeding one thousand rupees.

Illegal removal of spirituous liquors from Native distillery.

58. Whoever removes, or attempts to remove, any spirituous liquors from a distillery established under section 9 without a pass, or exceeding the quantity for which a pass has been issued,

or introduces, or attempts to introduce,[a] any spirituous liquors manufactured at another place into the limits fixed for the consumption of such liquors manufactured at such distillery, without a special pass from the Collector,

[b] shall be liable for every such offence (the provisions of section 17 notwithstanding) to a fine not exceeding five hundred rupees.[b]

Refusing to produce license on demand of excise-officer, or for breach of license.

59. Every manufacturer or vendor under this Act who fails to produce his license on the demand of any excise-officer,

or who commits any act in breach of any of the conditions of his license not otherwise provided for in this Act,

or who wilfully contravenes any rule made by the Board under section 10, otherwise than as provided in the last preceding section,

shall be liable for every such offence to a fine not exceeding fifty rupees,

and such fine shall be recoverable from such manufacturer or vendor, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other persons employed by him.

Penalty on retail vendor for selling wholesale, and on wholesale-

60. Every licensed retail vendor who sells by wholesale, and every licensed wholesale vendor who makes a retail sale, shall be liable for every such offence to a fine not exceeding two hundred rupees.

Nothing contained in the first clause of this section shall be held to

[a] The words "for sale" in s. 58, repealed by Ben. Act IV of 1881, s. 7, have here been omitted.

[b-b] This clause in s. 58 has been substituted for the original clause by Ben. Act IV of 1881—see s. 7 of that Act, *infra*.

vendor for selling by retail.

prohibit the grant to the same person of both wholesale and retail licenses, subject to the provisions of this Act,

[a]or shall be held to apply to the sale by licensed wholesale vendors of such small quantities of beer, wines or spirits, as may appear to the Collector to be used only as samples.[a]

Possessing more of any exciseable article than is specified in section 15 without license or pass.

61. Any person other than a licensed manufacturer or vendor or a person duly authorized to supply licensed vendors, having in his possession any greater quantity of any exciseable article or any preparation or admixture of the same, than the quantity specified for each article in section 15, [a]or than the quantity which may be fixed by the Board under the said section as the limit for a retail sale of any such article,[a] without a pass from the Collector or other officer duly empowered in that behalf, shall be liable to a fine not exceeding five hundred rupees.

[b]Nothing contained in the first clause of this section, or in section 17, applies to any spirituous or fermented liquors imported by sea which any person may have in his possession for his private use or consumption and not for sale.[b]

Penalty for being found in possession of foreign exciseable article in contravention of prohibition.

61A.[c] Any person who, in contravention of any notification issued under section 17A, is found in possession of any foreign exciseable article, or of a larger quantity of any such article than is permitted under such notification, shall be liable to a fine not exceeding five hundred rupees.

Section 61 not to apply to tári used in making sugar, nor to licensed cultivators.

62. The provisions of section 61, so far as they relate to the possession of fermented liquors, do not apply to the possession of tári when supplied or used for the manufacture of gúr or molasses;

and the provisions of the said section, so far as they relate to the possession of intoxicating drugs, do not apply to the possession of such drugs by any person duly authorized under this Act to cultivate the plants which produce these drugs.

Penalty for transfer by cultivators to unlicensed person, or failure to account for stock of plant.

63. But every such cultivator selling or parting with any such plant, or any preparation thereof, to any person other than a licensed vendor or person duly authorized to purchase the same by pass or license from the Collector, or failing to account for any quantity of such plant, or of any preparation thereof, which has been in his possession, shall be liable to a fine not exceeding five hundred rupees.

[a-a] These words in ss. 60 and 61 have been inserted by Ben. Act I of 1883, ss. 11 and 12, respectively—see Ben. Act I of 1883, ss. 11, 12, *infra*.

[b-b] This clause of s. 61 has been substituted for the original clause by Ben. Act IV of 1881—see s. 8 of that Act, *infra*; for further amendment of the same, see Ben. Act I of 1883, s. 12, *infra*.

[c] S. 61A has been inserted by Ben. Act IV of 1881—see s. 9 of that Act, *infra*.

64. [*Penalty for illegal possession of certain spirituous liquors.*] *Rep. by Ben. Act IV of 1881.*

65. Every proprietor, farmer, tahsildár, gumáshta or other manager of land, who authorizes or connives at the manufacture or sale of any exciseable articles by any unlicensed person, shall be liable for every such offence to a fine not exceeding five hundred rupees.

For conniving at illicit manufacture or sale of exciseable articles.

66. Any chemist, druggist, apothecary or keeper of a dispensary within the town or the suburbs of Calcutta, or in Howrah, who shall, between sunset and sunrise, allow spirituous or fermented liquors which have not been *bonâ fide* medicated to be drunk on his business premises by any person not employed in his business,

On chemist, &c., allowing liquors to be drunk on premises.

and any such person who shall, between sunset and sunrise, drink such liquors on such premises,

shall be liable to a fine not exceeding two hundred rupees, in addition to any other penalty to which he may be liable under this or any other Act.

67. Every licensed vendor who permits drunkenness, riot or gaming in his shop, or receives any wearing-apparel or other effects in barter for any exciseable article, shall be liable for every such offence to a fine not exceeding two hundred rupees.

For permitting drunkenness, &c., in shop.

68. Any police-officer who, without lawful excuse, neglects or refuses to assist an excise-officer on being required to do so shall be liable to a fine not exceeding five hundred rupees.

On police-officer for not assisting excise-officer.

69. Any excise-officer who, without reasonable ground of suspicion, enters or searches, or causes to be entered or searched, any house, boat or other place,

On excise-officer for vexatious search or seizure.

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any exciseable article liable to confiscation under this Act,

or vexatiously and unnecessarily detains, searches or arrests any person,

shall be liable for every such offence to a fine not exceeding five hundred rupees.

70. Any excise-officer who connives at the unlawful manufacture or sale of exciseable articles,

On excise-officer for conniving at unlawful manufacture or sale.

and any officer invested with local jurisdiction who authorizes or connives at the establishment of any unlicensed shop for the sale of such articles in any place subject to his control,

shall be liable for every such offence to a fine not exceeding five hundred rupees.

71. Any excise or police-officer who neglects to report the particulars of an

On excise-

officer for delay in reporting arrest, &c., or in bringing up person arrested.

arrest, seizure or search within twenty-four hours thereafter, or delays carrying to a Magistrate or to the Collector, as the case may be, any person arrested, or any illicit articles seized under this Act,

shall be liable for every such offence to a fine not exceeding two hundred rupees.

Adjudication of fines and seizures.

72. All fines prescribed for offences against the provisions of this Act, and all seizures of goods liable to confiscation under this Act, shall be adjudged by a Magistrate, and, in the town of Calcutta, by a Presidency Magistrate;

but no proceedings shall be taken by any such Magistrate after the expiration of six calendar months from the date of the commission of the offence.

All such fines and seizures shall be adjudged on the information of the Collector or any excise-officer; but such information shall not be necessary in the case of a complaint preferred under any of the five last preceding sections.

Penalty for contempt of Court.

73. The Collector, in respect of the duties to be performed by him under this Act, may punish any contempt committed in his presence in open Court by fine not exceeding two hundred rupees.

Punishment on second or subsequent conviction.

74. Whenever any person is convicted of an offence against the provisions of this Act, punishable with a fine of two hundred rupees or upwards, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment for a period not exceeding six months;

and a like punishment of imprisonment, not exceeding six months, shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

Imprisonment under this Act may be either simple or rigorous, as the Magistrate or Presidency Magistrate may direct.

Confiscation of exciseable articles.

75. Any exciseable article manufactured, or held in possession, in contravention of the provisions of this Act, and all the materials used, or intended to be used, in the manufacture of the same, [a]shall be liable to seizure by an officer duly empowered in that behalf, and to confiscation.[a]

When any articles liable to confiscation under this Act are seized, the vessels, packages and coverings in which they are contained, and the animals and conveyances used in carrying them, shall also be liable to seizure and confiscation.

Disposal of confiscated articles.

76. All confiscated articles shall be made over to the Collector for sale or disposal under such rules as the Board may prescribe.

Division of

77. Whenever any fine is levied under this Act from a person convicted of

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[a-a] These words in s. 75 have been substituted for the original words by Ben. Act IV of 1881—see s. 10 of that Act, *infra*.

the unlawful manufacture, sale, purchase or possession of any exciseable article,

or of the unlawful cultivation of plants from which intoxicating drugs are produced,

the Magistrate shall inform the Collector of such levy, and the Collector may, under such rules as the Board may prescribe, direct the amount of such fine to be divided, in such proportions as he may think fit, among any persons who were instrumental in the detection of the offence, the seizure of the articles in respect of which the offence was committed, or the capture of the offender;

and may award compensation thereout to any persons subjected to annoyance or injury by any proceedings under this Act.

Fine among persons instrumental in detection of offence, &c.

78. The Board may, either before or after the adjudication of a case, grant such reward, not exceeding two hundred rupees, as to them may seem fit;

and may direct the same to be divided, in such proportions as they may think fit, between any persons who were instrumental in the detection of the offence, the seizure of the articles in respect of which the offence was committed, or the capture of the offender.

Board may grant rewards.

79. The Board may appropriate any portion, not exceeding one half, of the fines levied under this Act, the disposal of which is not specially provided for, for rewarding informers, or for compensating persons subjected to annoyance or injury by any proceedings under this Act.

Disposal of fines.

PART IX.

Military Cantonments.

80. Within the limits of any military cantonment, and within a distance of two miles, or such other distance as the Local Government may in any case prescribe, from such limits, licenses for the manufacture and sale of exciseable articles shall not be granted, nor shall the duties leviable thereon be let in farm, otherwise than with the consent of the commanding officer; and, upon the requisition of such officer, any license which has been granted, either by the Collector or by a farmer, within such limits or distance, shall be immediately withdrawn.

Manufacture and sale of exciseable articles in cantonments.

81. In all other respects the provisions of this Act shall have effect within such limits and distance as aforesaid.[a]

Application of Act to cantonments.

[a] The proviso to s. 81, which has been repealed by Act XIII of 1889, has been omitted.

PART X.

MISCELLANEOUS.

Power to exempt exciseable articles from provisions of Act.

82.[a] The Local Government may, by notification in the Calcutta Gazette, within any specified tract of country, exempt any exciseable article or foreign exciseable article from all or any of the provisions of this Act, and may, from time to time, by a like notification, cancel such exemption.

Appeals.

83. An appeal shall lie to the Commissioner against every order of a Collector under this Act, if presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days from the date of the order appealed against.

An appeal shall lie to the Board against every order of a Commissioner under this Act, if presented to the Board within sixty days from the date of the order appealed against:

Provided that it shall be discretional with the Board to receive appeals direct from orders passed by a Collector.

Local Government may assign to any municipality powers as to granting of licenses.

84. Notwithstanding anything contained in this or in any other Act, the Local Government may, with the sanction of the Governor General in Council, assign to the Corporation of the town of Calcutta, or to any other municipality, such functions and powers as it shall think fit in respect to the granting, withholding and withdrawal of licenses for the sale of exciseable articles (being functions and powers which, but for such assignment, might legally be exercised by any officer of Government), to be exercised by such corporation or by such municipality within the limits of their respective jurisdictions under such conditions and subject to such rules as the Local Government may impose; and the Local Government may at any time withdraw and revoke any functions and powers which it has assigned under this section:

Provided that such functions and powers shall not be assigned as aforesaid without the consent of the said corporation or the municipality concerned:

Provided also that no such conditions or rules shall be imposed by the Local Government after such assignment has taken place without the consent of the said corporation or the municipality concerned.

Saving of certain other Acts.

85. Nothing contained in this Act shall be held to affect the provisions of the Cantonments Act, 1889,[b] or of the Sea Customs Act, 1878,[c] or of Bengal Acts II[d] and IV[e] of 1866. XIII of 1889. VIII of 1878.

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[a] This section has been substituted for the original s. 82 by Ben. Act IV of 1881—see s. 11 of that Act, *infra*.

[b] See Act XIII of 1889, s. 2 (3).

[c] See General Acts, 1877—81, p. 183.

[d] See *supra*, p. 46.

[e] See *supra*, p. 61.

SCHEDULE.

(*See section 3.*)

PART I.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
Act XI of 1849 . .	For securing the Abkári-revenue of Calcutta.	So much as has not been repealed.
Act XXI of 1856 . .	To consolidate and amend the Abkári law in Bengal.	So much as has not been repealed.

PART II.—ACTS OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
Act III of 1873 . .	To amend Act XI of 1849 and Act XXI of 1856.	The whole.
Act I of 1874 [a] . .	To amend Act XXI of 1856 and Bengal Act II of 1866.	So far as it relates to Act XXI of 1856.
Act II of 1876 [b] . .	To amend Act XI of 1849, Act XXI of 1856 and Bengal Act IV of 1866.	So much as has not been repealed, except section 12.

ACT No. I OF 1879.

Received the Lieutenant-Governor's assent on the 14th March, 1878, and the Governor General's assent on the 22nd January, 1879.

An Act to amend the procedure in suits between Landlords and Tenants in Chota Nagpore.

WHEREAS it is expedient to amend the procedure in suits between landlords and tenants in Chota Nagpore; It is enacted as follows:— Preamble.

1. This Act may be called the Chota Nagpore Landlord and Tenant Procedure Act: Short title.

[a] See *supra*, p. 235. [b] See *supra*, p. 265.

Local extent.

It extends to the territories for the time being under the administration of the Commissioner of the division of Chota Nagpore, except the district of Manbhoom and the Tributary Mahâls;

Commencement.

And it shall come into force from the date[a] on which it may be published in the Calcutta Gazette with the assent of the Governor General.

Interpretation-clause.

2. In this Act, unless there be something repugnant in the subject or context,—

"Civil jail."

"civil jail" includes the civil jail of the district, and any place appointed by the Local Government for the confinement of prisoners under this Act:

"Commissioner" and "Judicial Commissioner."

"the Commissioner" and "Judicial Commissioner" mean respectively the Commissioner and Judicial Commissioner of Chota Nagpore:

"Deputy Collector."

"Deputy Collector" includes also an Assistant Commissioner:

"Nazir."

"nazir" means any officer of a Court authorized to serve or execute it process:

"Section."

"section" means a section of this Act.

Enactments repealed.

3. On and from the commencement of this Act[a] the enactments specified in Schedule A hereto annexed shall be repealed to the extent mentioned in the third column of the said schedule.

Decision of suits instituted before commencement of Act.

4. All suits or proceedings of the nature provided for by this Act, which, before the commencement of this Act, shall have been instituted before any Deputy Commissioner or other officer having jurisdiction under any enactment hereby repealed, shall be heard and decided, so far as may be, under this Act.

Raiyat entitled to pattá.

5. Every raiyat is entitled to receive, from the person to whom the rent of the land held or cultivated by him is payable, a pattá containing the following particulars:—

the quantity and boundaries of land; and, where fields have been numbered in a Government survey, the number of each field;

the amount of annual rent:

the instalments in which the same is to be paid;

any special conditions of the lease; and

(if the rent is payable wholly or partially in kind) the proportion of quantity of produce to be delivered, and the time and manner of delivery.

Right of occupancy of raiyat cultivating or

6. Every raiyat who has cultivated or held land for a period of twelve years has a right of occupancy in the land so cultivated or held by him, whether it be held under pattá or not, so long as he pays the rent payable on account of the

[a] *i.e.*, the 5th February, 1879.

same; but this rule does not apply to the classes of lands locally known as majhahs, mán or saika; nor to khámár, nijjot or sir-land belonging to the proprietor to the estate or tenure, and let by him on lease for a term, or year by year.

holding land for twelve years.

The holding of the father, or other person from whom a raiyat inherits, shall be deemed to be the holding of the raiyat within the meaning of this section.

7. Nothing contained in the last preceding section shall be held to affect the terms of any written contract for the cultivation of land entered into between a landholder and a raiyat when it contains any express stipulation contrary thereto.

Saving of terms of written contracts.

8. Raiyats having rights of occupancy are entitled to receive pattás at fair and equitable rates.

Raiyats having rights of occupancy entitled to pattás.

In case of dispute, the rate previously paid by the raiyat shall be deemed to be fair and equitable, unless the contrary be shown in an enquiry under section 24.

9. Raiyats not having rights of occupancy are entitled to pattás only at such rates, and on such conditions, as may be agreed on between them and the persons to whom the rent is payable.

Pattás to which raiyats not having rights of occupancy are entitled.

10. Every person who grants a pattá is entitled to receive from the person to whom the pattá is granted a kabúliyat or counterpart engagement in conformity with the terms of the pattá.

Person granting pattá entitled to counterpart engagement.

The tender to any raiyat of a pattá such as the raiyat is entitled to receive shall be held to entitle the person to whom the rent is payable to receive a kabúliyat from such raiyat.

11. Every under-tenant or raiyat from whom any sum is exacted in excess of the rent specified in his pattá, or payable under this Act, whether as ábwáb or under any other pretext,

Exactions in excess of rent or receipt withheld.

and every under-tenant, raiyat or cultivator from whom a receipt is withheld for any sum of money paid by him as rent,

shall be entitled to recover from the person receiving such rent damages not exceeding double the amount so exacted or paid.

12. Receipts for rent shall specify the year or years on account of which the rent is acknowledged to have been paid; and any refusal to make such specification shall be held to be a withholding of a receipt.

Form of receipt.

13. If any under-tenant or raiyat shall, at the mál-kachahri for the receipt of rents, or other place where the rents of the land held or cultivated by him are usually payable, tender payment of what he shall consider to be the full

Under-tenant or raiyat may, after tender, &c., pay into Court, whether

suit instituted or not, what he admits to be due to his zamindár, &c.

amount of rent due from him at the date of the tender to the zamindár or other person in receipt of the rent of such land; and if the amount so tendered shall not be accepted, and a receipt in full forthwith granted, the under-tenant or raiyat may, whether a suit shall have been instituted against him or not, within one month from the date of such tender, deposit such amount in the Court of the Deputy Commissioner having jurisdiction to entertain a suit for such rent, to the credit of the zamindár or other person aforesaid;

and such deposit shall, so far as the under-tenant or raiyat and all persons claiming through or under him are concerned, in all respects operate as, and have the full effect of, a payment then made by the under-tenant or raiyat of the amount deposited to the credit of such zamindár or other person.

Proceedings on receipt of deposit and payment of same.

14. The Deputy Commissioner shall receive such deposit on the written application of the under-tenant or raiyat, or his agent; and on the under-tenant or raiyat, or his agent, making a declaration in the form, or as nearly as circumstances will admit in the form, set forth in Schedule B hereto annexed, the Deputy Commissioner shall give a receipt for the same.

The Deputy Commissioner shall, within seven days from the date of the deposit, issue a notice to the person to whose credit it has been deposited, in the form set forth in Schedule C hereto annexed.

If the person to whom such notice is issued, or his duly authorized agent, shall appear and apply that the money in deposit be paid to him, it shall be immediately made over to him.

Limitation of suit for rent due prior to deposit.

15. Whenever such deposit shall have been made, no suit shall be brought against the person making the same or his representatives, on account of any rent which accrued due prior to the date of the deposit, unless such suit be instituted within six months from the date of the service of the notice mentioned in the last preceding section.

Landholder not to compel attendance of tenant for adjustment of rent.

16. All zamindárs and other landholders are prohibited from compelling the attendance of their tenants for the adjustment of their rents or for any other purpose, and from adopting any means of compulsion for enforcing payment of the rent due to them other than those authorized by this Act.

Damages for extorting payment of rent by duress.

17. If payment of rent, whether the same be legally due or not, is extorted from any under-tenant or raiyat by illegal confinement or other duress, such under-tenant or raiyat shall be entitled to recover such damages, not exceeding two hundred rupees, as may be deemed a reasonable compensation for the injury done him by such extortion.

An award of compensation under this section shall not bar or affect any penalty or punishment to which the person practising such extortion may be subject by law.

18. No dependent taluqdár or other person possessing a permanent transferable interest in land, intermediate between the proprietor of an estate and the raiyats, who holds his taluq or tenure (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the permanent settlement, shall be liable to any enhancement of such rent, anything in section 51, Regulation VIII, 1793,[a] or in any other law to the contrary notwithstanding.

Dependent taluqdár, &c., when not liable to enhancement of rent.

19. No tenant of lands known as bhúinhári or khúdkáti shall be liable to any enhancement of the rent previously paid by him for such lands, unless it be shown that the tenure has been created within twenty years before the institution of the suit to enhance the rent of the said lands;

Enhancement of rent of bhúinhári and khúdkáti lands.

and, where enhancement of the rent of such tenure is decreed, the rent assessed shall not exceed one half of the rent paid by an ordinary raiyat with a right of occupancy on the same class of land with similar advantages.

20. No tenant of lands known as korkor, baiballá, khandwat, sajhwat, jálsásan and áriát shall be liable to any enhancement of rent except under the terms of a written contract, or in accordance with the general custom prevailing with respect to such lands in the village in which they are situated.

Enhancement of the rent of korkor, &c., lands.

21. No other under-tenant or raiyat having a right of occupancy shall be liable to any enhancement of the rent previously paid by him otherwise than in the manner provided by the three next succeeding sections.

Procedure for enhancement of rent.

22. Any person wishing to enhance the rent previously paid to him by any such under-tenant or raiyat may present a petition to the Deputy Commissioner to assess the rent on the land in respect of which such enhancement is sought, and (if necessary) to measure the same.

Petition to be made to Deputy Commissioner.

23. Such petition shall specify—

Particulars to be specified.

the present rent of the under-tenant or raiyat against whom the application is made;

the general rate prevailing in the village for different classes of lands;

the date (as nearly as it can be ascertained) when the rate was last adjusted in the village;

the rate which the applicant desires to demand, and

the grounds on which he considers that he is entitled to enhancement.

The provisions of sections 49 and 50 shall apply to all such applications.

24. On receipt of such petition the Deputy Commissioner shall forthwith give notice of the contents thereof to the under-tenant or raiyat holding the land in respect of which enhancement is sought, and may (if necessary) order

Procedure on receipt of petition.

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[a] See Vol. I, p. 20.

the same to be measured, and may upon consideration of all the circumstances set forth in the petition, and after hearing any objection which may be advanced against the proposed enhancement by the said under-tenant or raiyat, fix such enhanced rent, or may otherwise alter or vary the rent for the said land as to him may seem fair and reasonable for such period, not being less than ten or more than twenty years, as he may think fit;

and the rent so fixed or varied shall be payable by such under-tenant or raiyat from the commencement of the local year following the year in which the order is passed, and may be recovered in any suit preferred against him for arrears of the same:

Provided that nothing in this section shall be held to bar the right of such under-tenant or raiyat to claim at any time an abatement of the rent previously paid by him under the provisions of section 27.

Commutation of conditions or services to which lands may be subject.

25. When lands are held subject to any conditions or services other than or besides the payment of a rent in money, the tenant of such lands, or the person who has the right to receive the rents and services issuing from such lands, may apply in writing to the Deputy Commissioner for commutation of all such conditions or services.

Determination of rent payable in commutation.

26. The Deputy Commissioner shall thereupon cause a notice to be served on each of the persons who under the last preceding section would have a right to make such application, and shall fix a date for considering the same; and on such date, or any date thereafter to which the hearing may be postponed, shall proceed to enquire into the matter, and to determine the amount of rent which in his judgment is fairly and equitably payable in commutation of the conditions or services to which such lands may be subject.

Claim of abatement of rent.

27. Any under-tenant or raiyat having a right of occupancy and wishing to claim an abatement of the rent previously paid by him may present a petition to the Deputy Commissioner to assess the rent on the land in respect of which such abatement is sought, and (if necessary) to measure the same.

Such petition shall specify the particulars mentioned in section 23 and the grounds on which such under-tenant or raiyat considers that he is entitled to such abatement.

The provisions of sections 49 and 50 shall apply to all such applications.

Procedure on claim of abatement of rent.

28. On receipt of such petition the Deputy Commissioner shall forthwith give notice of the contents thereof to the person to whom the rent of such under-tenant or raiyat is payable, and may (if necessary) order the land to be measured, and may proceed as prescribed by section 24 to fix such abatement of rent, or may otherwise alter or vary the rent for the land of such under-

tenant or raiyat as to him may seem fair and reasonable, for such period, not being less than ten nor more than twenty years, as he may think fit;

and the rent so fixed or varied shall be payable by such under-tenant or raiyat from the commencement of the local year following the year in which the order is passed, and may be recovered in any suit preferred against him for arrears of the same:

Provided that nothing in this section shall be held to bar the right of the person to whom the rent of such under-tenant or raiyat is payable to claim at any time an enhancement of the rent of such under-tenant or raiyat under the provisions of section 22.

Relinquishment of land by raiyat after notice given.

29. Any raiyat may relinquish the land held or cultivated by him, provided he gives notice of his intention in writing to the person entitled to the rent of the land, or his authorized agent, in or before the month of Paush of the year preceding that in which the relinquishment is to have effect.

If he fails to give such notice, and the land is not let to any other person, he shall continue liable for the rent of the land.

If the person entitled to the rent of the land, or his agent, refuses to receive any such notice and to sign a receipt for the same, the raiyat may make an application to the Deputy Commissioner, who shall thereupon cause the notice to be served on such person or his agent.

What to be deemed arrear of rent under Act.

30. Any instalment of rent which is not paid on or before the day when the same is payable according to the pattá or engagement, or, if there is no written specification of the time of payment, at or before the time when such instalment is payable according to established usage, shall be held to be an arrear of rent under this Act, and, in the absence of any written agreement to the contrary, shall be liable to interest at six per centum per annum.

Liability of raiyat to be ejected for arrear due.

31. When an arrear of rent remains due from any raiyat at the end of the Bengal or Sambat year, or at the end of the month of Jeth of the Fasli or Wiláyati year, as the case may be, such raiyat shall be liable to be ejected from the land in respect of which the arrear is due, but only in execution of a decree or order passed under the provisions of this Act.

Liability of farmer to have lease cancelled for arrear adjudged due.

32. When an arrear of rent is adjudged to be due from any farmer or other leaseholder not having a permanent or transferable interest in the land, the lease of such leaseholder shall be liable to be cancelled, and the leaseholder to be ejected:

Provided that no such lease shall be cancelled, nor the leaseholder ejected, otherwise than in execution of a decree or order under the provisions of this Act.

Measurement of lands.

33. Every proprietor of an estate or tenure, or other person in receipt of the rents of an estate or tenure, has a right to make a general survey or

measurement of the lands comprised in such estate or tenure, unless restrained from doing so by express engagement with the occupants of the lands.

If any person intending to measure any land which he has a right to measure is opposed in making such measurement by the occupant of the land,

or if any under-tenant or raiyat, having received notice of the intended measurement of land held or cultivated by him which is liable to such measurement, refuses to attend and point out such land,

such person may make application to the Deputy Commissioner, and the Deputy Commissioner shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and shall pass an order either allowing or disallowing the measurement, and, if the case so require, enjoining or excusing the attendance of any such under-tenant or raiyat.

If any under-tenant or raiyat, after the issue of an order enjoining his attendance, neglects to attend, it shall not be competent to him to contest the correctness of the measurement made in his absence.

Registration of transfers of taluqs, &c.

34. All dependent taluqdárs and other persons possessing a permanent heritable interest in land intermediate between the zamindár and the cultivator are required to register, in the sarishta of the zamindár or superior tenant to whom the rents of their taluqs or tenures are payable, all transfers of such taluqs or tenures or portions of them, by succession or inheritance.

Every zamindár or superior tenant is required to admit to registry and otherwise give effect to all such transfers.

Application for the registration of all such successions as may have occurred previously to the commencement of this Act shall be made within two years from the commencement thereof, and for future successions within one year from the date on which the succession occurred: and, if such application be not made within the period herein specified, the zamindár or superior tenant may apply to the Deputy Commissioner to put him in possession of the taluq or tenure.

On receipt of such application the Deputy Commissioner shall issue a notice to the taluqdár or tenure-holder in possession, requiring him to register the transfer within three months from the receipt of the notice, and, if he neglects or refuses so to register, the Deputy Commissioner may, on proof to his satisfaction being given of the service of the notice, put the zamindár or superior tenant aforesaid in possession of the taluq or tenure.

Provisions applied to sale of under-tenures.

35. The provisions of the last preceding section shall also be applicable to the sale of such under-tenures as are mentioned in section 123, and to the sale of the right and title of any person under section 124.

36. If any zamindár or superior tenant refuses to admit to registry or otherwise to give effect to any such transfer as is mentioned in the two last preceding sections, the transferee may make application to the Deputy Commissioner, and the Deputy Commissioner shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and, if no sufficient grounds are shown for the refusal, shall pass an order enjoining the zamindár or superior tenant to admit to registry and otherwise give effect to such transfer : Procedure on refusal to register.

Provided that no zamindár or superior tenant shall be required to admit to registry or give effect to any division or distribution of the rent payable on account of any such tenures, nor shall any such division or distribution of rent be valid without the consent in writing of the zamindár or superior tenant.

37. (1) All suits for the delivery of pattás or kabúliyats or for the determination of the rates of rent at which such pattás or kabúliyats are to be delivered; Cognizance of suits under Act.

(2) all suits for damages on account of the illegal exaction of rent or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress ;

(3) all complaints of excessive demand of rent, and all claims to abatement of rent;

(4) all suits for arrears of rent due on account of land either rent-paying or rent-free, or on account of any rights of pasturage, forest-rights, fisheries or the like;

(5) all suits to eject any raiyat, or to cancel any lease on account of the non-payment of arrears of rent, or on account of a breach of the conditions of any contract by which a raiyat may be liable to ejectment, or a lease may be liable to be cancelled;

(6) all suits to recover the occupancy or possession of any land, farm or tenure from which a raiyat, farmer or tenant has been illegally ejected by the person entitled to receive rent for the same;

(7) all suits by zamindárs and others in receipt of the rent of land, against any agents employed by them in the management of land or collection of rents, or the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession,

shall be cognizable by the Deputy Commissioners, and shall be instituted and tried under the provisions of this Act, and shall not be cognizable in any other Court, except in the way of appeal as provided in this Act.

38. The Deputy Commissioner may, with the consent of the parties, refer any suit under this Act to arbitration, and the provisions of sections 506 to Power to refer to arbitration.

522 (both inclusive) of the Code of Civil Procedure* shall, as far as may be practicable, apply to such references. XIV of 1882.

Suit may be brought by or against raiyats collectively.

39. In every suit under this Act, of the nature of those specified in the first, second, third or fourth clauses of section 37, and in applications for enhancement, abatement or measurement under sections 22, 27 or 33, any number of raiyats or other tenants may sue or be sued collectively, and it shall be no ground for dismissing the suit or refusing to hear the application that such raiyats or other tenants are wrongly joined as plaintiffs or defendants, provided that all such raiyats or other tenants hold land in the same village;

but no order shall be passed in such case unless the officer making the same is satisfied that all parties have had an opportunity to appear and make objection to any claims preferred against them;

and if at any time it shall appear to the Deputy Commissioner that the question between any two of the parties, of whom one is so joined with others, cannot conveniently be so jointly tried, the Deputy Commissioner may order a separate trial to be held.

Order to specify how far it applies to each raiyat.

40. Every order passed in any such case as is mentioned in the first clause of the last preceding section shall specify the extent to which each of the raiyats or other tenants named in the order shall be affected thereby.

Suits by or against sarbarákárs or tahsildárs of estates held khás.

41. All suits which under this Act may be brought by or against zamindárs or other persons in the receipt of the rent of land may be brought by or against sarbarákárs or tahsildárs of estates held under khás management, whether such estates are the property of Government or of individuals.

General rule for limitation of suits.

42. Except as otherwise herein provided, all suits instituted under this Act shall be commenced within the period of one year from the date of the accruing of the cause of action.

Limitation of suits for grant of pattás, &c.

43. Suits for the delivery of pattás or kabúliyats, and for the determination of the rates of rent at which such pattás or kabúliyats are to be delivered, may be instituted at any time during the tenancy.

Limitation of suits for arrears of rent.

44. Suits for the recovery of arrears of rent shall be instituted within three years from the last day of the Bengal or Sambat year, or from the last day of the month of Jeth of the Fasli or Wiláyati year, in which the arrear claimed shall have become due:

Provided that, if the suit be for the recovery of rent at a higher rate than was payable in the previous year, such rent not having been enhanced by the Deputy Commissioner under this Act, the suit shall be instituted within three months from the end of the Bengal or Sambat year, or of the month of Jeth

* See Act XIV of 1882, s. 3, in General Acts, 1882—84, p. 32.

of the Fasli or Wilâyati year, on account of which such enhanced rent is claimed.

Limitation of suits against agents for money, papers or accounts.

45. Suits for the recovery of money in the hands of an agent, or for the delivery of accounts or papers by an agent, may be brought at any time during the agency, or within one year after the determination of the agency of such agent:

Provided that, if the person having the right to sue shall, by means of fraud, have been kept from the knowledge of the receipt of any such money by the agent, or if any fraudulent account shall have been rendered by the agent, the suit may be brought within one year from the time when the fraud shall have been first known to such person; but no such suit shall in any case be brought at any time exceeding three years from the termination of the agency.

Mode of instituting suits. Form of statement of claim.

46. Suits under this Act shall be instituted by presenting to the Deputy Commissioner a plaint or statement of claim which shall contain—

the name, description and place of abode of the plaintiff;

the name, description and place of abode of the defendant, so far as they can be ascertained;

the substance of the claim, and

the date of the cause of action.

Form of statement in suits for arrears of rent.

47. If the suit is for the recovery of an arrear of rent, the statement of claim shall specify—

the name of the village and estate;

the name of the pergunnah or other local division in which the land is situated;

(if the arrear is alleged to be due from any raiyat) the quantity of land;

(where fields have been numbered in a Government survey) the number of each field;

the yearly rent of the land;

the amount (if any) received on account of the year for which the claim is made;

the amount in arrear; and

the time in respect of which it is alleged to be due.

Statement in suits for ejectment or for recovery of occupancy or possession.

48. If the suit is for the ejectment of a raiyat, farmer or tenant from any land, fârm or tenure, or for the recovery of the occupancy or possession of any land, farm or tenure, the statement of claim shall specify (as circumstances may require) the extent, situation and designation of the same, and (if necessary for the identification of the land) the boundaries of such land.

Statement by whom to be presented.

49. The statement of claim shall be presented by the plaintiff, or by an authorized agent of the plaintiff who has personal knowledge of the facts of the case, or by an agent who shall be accompanied by a person who has such knowledge.

Verification of statement.

50. The statement of claim shall be subscribed and verified at the foot by the plaintiff or his agent in the manner following, or to the like effect:—

"I, *A. B.*, do declare that the above statement is true to the best of my knowledge and belief."

Documentary evidence to be produced by plaintiff.

51. If the plaintiff relies in support of his claim on any document in his possession, he shall deliver the same to the Deputy Commissioner at the time of presenting his statement of claim.

Unless such document be delivered or its non-production be sufficiently excused, or unless the Deputy Commissioner see fit to extend the time for producing the same, it shall not afterwards be admitted.

Plaintiff may require production of document from defendant.

52. If the plaintiff requires the production of any document in the possession or power of the defendant, he may, at the time of presenting his statement of claim, deliver to the Deputy Commissioner a description of the document in order that the defendant may be required to produce the same.

Statement may be returned or allowed to be amended.

53. If the statement of claim does not contain the several particulars hereinbefore required to be specified therein, or is not subscribed and verified as hereinbefore required, the Deputy Commissioner may return the statement to the plaintiff, or, at his discretion, allow it to be amended.

Issue of summons; personal attendance of defendant may be required.

54. If the statement of claim is in proper form, the Deputy Commissioner, except as otherwise hereinafter specially provided, shall direct the issue of a summons to the defendant, and if the plaintiff requires the personal attendance of the defendant, and satisfies the Deputy Commissioner that such personal attendance is necessary, or the Deputy Commissioner of his own accord requires such personal attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons; otherwise the summons shall order the defendant to appear personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or who shall be accompanied by a person who has such personal knowledge.

Day to be specified in summons how fixed. Defendant to be ordered to produce documents and witnesses

55. The day to be specified in the summons shall be fixed with reference to the state of the file, and the distance that the defendant may be or be supposed to be at the time from the place where the Court is held, and the summons shall order the defendant to produce any document which he may have in his possession, of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support of his defence.

It shall also enjoin him to bring with him his witnesses if they are willing to attend without issue of process, and shall be in the form contained in Schedule D hereto annexed, or to the like effect.

willing to attend without process.

56. The amount of the cost of serving the summons, or, if a warrant is issued as provided in the next succeeding section, of serving the warrant, shall in all cases be deposited in Court upon the same day or the day next following that on which the plaint or statement of claim is presented to the Deputy Commissioner.

Cost of serving summons or warrant to be deposited in Court.

If the said amount be not so deposited, the case shall not be brought on the file of suits; but in such case the plaintiff may present another plaint at any time within the period prescribed by this Act for the limitation of suits.

57. If in any suit against an under-tenant or raiyat for the recovery of an arrear of rent, or against an agent for the recovery of any money, papers or accounts, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit is instituted, he shall present with his statement of claim an application for the issue of such warrant.

Warrant of arrest in what cases to be issued.

When such application is presented the Deputy Commissioner shall examine the plaintiff or his agent according to the law for the time being in force for the examination of witnesses, and inspect the documents adduced by him in support of his claim, and if there be *primâ facie* grounds for believing the claim to be well-founded, and that, if a summons be issued, the defendant will abscond instead of appearing to answer the claim, the Deputy Commissioner may issue a warrant for the arrest of the defendant.

The Deputy Commissioner shall fix a reasonable time for the return of the warrant, which shall be in the form contained in the Schedule E hereto annexed, or to the like effect, and the officer entrusted with the service of the warrant shall at the time of arresting the defendant deliver to him a notice addressed to the defendant, which shall be in the form in the Schedule F hereto annexed, or to the like effect, containing the particulars of the claim, and requiring the defendant, if he contest the claim, to bring with him any document upon which he may intend to rely in support of his defence.

But no such warrant shall be issued in a suit for arrears of rent due in respect of a dependent taluq or other transferable tenure which, as hereinafter provided, is liable to sale in execution of any decree which may be passed in the case.

58. If the defendant is arrested under the warrant of arrest, he shall be brought with all convenient speed before the Deputy Commissioner, and the

Procedure after arrest of defendant.

Deputy Commissioner shall commit him to custody, unless he deposits in Court such sum as may be specified in the notice.

Procedure when defendant is brought before Deputy Commissioner under warrant.

59. When the defendant is brought before the Deputy Commissioner under warrant, the Deputy Commissioner shall with all convenient speed proceed to try the case in the manner hereinafter provided;

if the suit cannot be at once adjudicated, the Deputy Commissioner may, if he think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is pending, or until execution of the final decree which may be passed thereon, and may commit the defendant to the civil jail, to be there detained until he shall furnish such security or deposit such sum as the Deputy Commissioner shall order.

The security-bond shall be in the form contained in Schedule G hereto annexed, or to the like effect.

Procedure if warrant of arrest cannot be served upon defendant.

60. If the defendant cannot be arrested under the warrant, the Deputy Commissioner, on the application of the plaintiff, shall either postpone the case, for such period as he may think proper, in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation, to be affixed to his own office and to the residence of the defendant, appointing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice at the residence of the defendant.

If the defendant appears in pursuance of the proclamation, he shall be dealt with as provided in the last preceding section.

Compensation for arrest applied for without reasonable cause.

61. If it appears to the Deputy Commissioner that the arrest of the defendant was applied for without reasonable cause, the Deputy Commissioner may in his decree award to the defendant such sum, not exceeding one hundred rupees, as he may deem a reasonable compensation for any injury or loss which the defendant may have sustained by reason of such arrest, or of his detention in jail during the pendency of the suit.

Consequence of neither party appearing on day of trial.

62. If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be postponed prior to the recording of an issue for trial as hereinafter provided, neither of the parties appears in person or by an agent, the case shall be struck off, with liberty to the plaintiff to bring a fresh suit, unless precluded by the provisions for the limitation of suits contained in this Act.

Procedure when defendant only appears,

63. If on any such day the defendant only appears, the Deputy Commissioner shall pass judgment against the plaintiff by default, unless the defendant admit the cause of action, in which case the Deputy Commissioner shall

proceed to give judgment for the plaintiff upon such admission without costs:

or if he admit claim.

Provided that such judgment, if there be more than one defendant, shall be only against the defendant who makes the admission.

If plaintiff only appear, Deputy Commissioner may proceed *ex parte*.

64. If on any such day the plaintiff only appears, the Deputy Commissioner, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or oral evidence adduced by him, may either dismiss the case or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex parte* against the defendant.

If defendant appear on day to which case is postponed, Deputy Commissioner may allow him to be heard.

65. If the defendant appears on any subsequent day to which the hearing of the suit may be postponed under the last preceding section, the Deputy Commissioner may, upon such conditions, if any, as to costs or otherwise as he may think proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.

Revival, reversal and alteration of decrees *ex parte* or by default.

66. No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance.

But in all such cases, if the party against whom judgment has been given appears, either in person or by agent, if a plaintiff within fifteen days from the date of the Deputy Commissioner's order, and if a defendant within fifteen days after any process for enforcing the judgment has been executed, or at any earlier period, and shows sufficient cause for his previous non-appearance, and satisfies the Deputy Commissioner that there has been a failure of justice, the Deputy Commissioner may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit and alter or rescind the decree, according to the justice of the case.

But no decree shall be reversed or altered without previously summoning the opposite party to appear and be heard in support of it.

Order to set aside judgment final, but rejection of application to set aside appealable.

67. In all cases in which the Deputy Commissioner shall pass an order for setting aside a judgment the order shall be final; but, in all appealable cases in which the Deputy Commissioner shall reject the application, an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable: provided that the appeal be preferred within the time allowed for an appeal from such final decision.

On appearance, parties to be

68. When both parties appear in person on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned

examined by Deputy Commissioner and may cross-examine each other.

for sufficient reason to be recorded by the Deputy Commissioner, the Deputy Commissioner shall proceed to examine them, and either party or his agent may cross-examine the other.

If either of the parties is not bound to attend personally, any agent by whom he shall appear, or any person who shall accompany such agent, shall be examined and cross-examined in like manner as the party himself would have been if he had attended personally.

At the time of examination the defendant, if he think fit, may file a written statement of his defence. Such statement shall be verified in the manner prescribed in section 50.

Conduct of examination.

69. The examination of the parties or their agents, or such other persons as aforesaid, shall be conducted according to the law for the time being in force for the examination of witnesses.

The substance of the examination shall be reduced to writing in the vernacular language of the Deputy Commissioner and filed with the record:

Provided that all examinations of parties and witnesses may be recorded in English, if the Deputy Commissioner be sufficiently acquainted with that language.

Witnesses may be examined.

70. If either of the parties brings forward a witness on the day aforesaid, the Deputy Commissioner may take the evidence of such witness.

Documentary evidence to be produced by defendant.

71. If the defendant relies on any document in support of his defence, he shall deliver the same into Court at the first hearing of the suit; and, unless such document is so delivered in, or its non-production is sufficiently excused, or unless the Deputy Commissioner sees fit to extend the time for producing the same, it shall not afterwards be admitted.

After examination Deputy Commissioner may make decree if no further evidence required.

72. If after the examination required by section 68, and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced, a decree can be properly made without further evidence, the Deputy Commissioner shall make a decree accordingly.

Consequence of inability of agent to answer material question.

73. If, on such examination as aforesaid, the agent of either party is unable to answer any material question relating to the case, which the Deputy Commissioner is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Deputy Commissioner may postpone the hearing of the case to a future day, and direct that the party whose agent may have been unable to answer as aforesaid shall attend in person on such day;

and, if the party so directed to attend fails to appear in person on the day appointed, the Deputy Commissioner may pass judgment as in case of default,

or make such other order as he may deem proper under the circumstances of the case.

If necessary, Deputy Commissioner to record issue and to fix day for hearing further evidence.

74. If, on such examination as aforesaid, it appears that the parties are at issue on any question upon which it is necessary to hear further evidence, the Deputy Commissioner shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit; and the trial shall shall take place on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Deputy Commissioner.

Parties to produce witnesses on trial, or Deputy Commissioner on application to summon witness.

75. The parties shall bring forward their witnesses on the day of trial, and if either party requires assistance to procure the attendance of a witness on such day, either to give evidence or to produce a document, he shall apply to the Deputy Commissioner in sufficient time before the day fixed for the trial to enable the witness to be summoned to attend on that day; and the Deputy Commissioner shall issue a summons requiring such witness to attend.

XIV of 1882.

Code of Civil Procedure applied to attendance, examination, &c.

76. The provisions of the Code of Civil Procedure[a] relating to the attendance and examination of witnesses and the production of documents, and to the remuneration and punishment of witnesses, shall, so far as they are consistent with this Act, apply to all suits under this Act.

Consequence of parties not appearing on day fixed for trial of issue.

77. If on the day fixed for the trial of any issue neither of the parties appear, the case shall be struck off under the conditions provided in section 62.

If on any such day one only of the parties appears, the issue may be tried and determined, in the absence of the other party, upon such proof as may be then before the Court.

Suits instituted or defended by náibs, gumashtas, &c.

78. When suits under this Act are instituted or defended by náibs, gumashtas or other persons employed in the collection of rent or management of land, in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act by which the personal appearance or attendance of parties to a suit is or may be required shall be applicable to such náibs, gumashtas or other persons; and anything which by this Act is required or permitted to be done by a party in person may be done by any such person as aforesaid.

Processes served on any such person shall be as effectual for all purposes in relation to the suit as if the same had been served on the landholder in person; and all the provisions of this Act relative to the service of processes

[a] See Act XIV of 1882, s. 3, and Chaps. XIV and XV, in General Acts, 1882—84, pp. 32, 73, *et seq.*

on a party to the suit shall be applicable to the service of processes on such person.

Personal attendance when not required.

79. A plaintiff or defendant shall not be required to attend in person if of the female sex, and of a rank or class which, according to the custom and manners of the country, would render it improper for her to appear in public.

Employment of authorized agents or mukhtárs.

80. Any party to a suit may employ an authorized agent or mukhtár to conduct the case on his behalf, but the appointment of such agent or mukhtár shall not excuse the personal attendance of the plaintiff or defendant in cases where his personal attendance is required by the summons or any order of the Court.

Deputy Commissioner may grant time or adjourn hearing.

81. The Deputy Commissioner may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence respectively of a suit, and may also from time to time, in order to the production of further proof, or for other sufficient reason to be recorded by him, adjourn the hearing or further hearing of any case in such manner as to him may seem fit.

Deputy Commissioner may cause local enquiry to be made.

82. The Deputy Commissioner may at any stage of a suit cause a local enquiry and report respecting the matter in dispute to be made by any officer subordinate to him, or by any other officer of Government with the consent of the authority to whom such officer is subordinate, or may himself proceed to the spot and make such local enquiry in person.

The provisions of the law for the time being in force, relative to local enquiries by amins or commissioners under orders of the Civil Courts, shall apply to any local enquiry made by any officer under this section and, so far as they are applicable, to enquiries made by the Deputy Commissioner in person.

In the latter case the Deputy Commissioner, after completing the enquiry, shall record on the proceedings such observations as appear to him appropriate, and the observations so recorded shall be received as evidence in the suit.

Payment into Court by defendant after action brought.

83. The defendant in any suit under this Act may, if he has duly tendered the same to the plaintiff before the institution of the suit, pay into Court such sum of money as he may consider due to the plaintiff without paying in any costs incurred by the plaintiff up to the time of such payment, and such sum shall be immediately paid out of Court to the plaintiff.

Costs if plaintiff goes on and recovers no more.

If after such payment the plaintiff elects to proceed in the suit and ultimately recovers no further sum than shall have been paid into Court, the plaintiff shall be charged with the whole costs of the suit incurred by the defendant; but, if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall be charged with the whole costs of the suit.

84. The defendant in any suit under this Act may, without having made any tender before action brought, pay into Court such sum of money as he may consider due to the plaintiff, together with the costs (to be fixed by the Court if necessary as upon a suit originally instituted for the amount so paid into Court) incurred by the plaintiff up to the time of such payment, and such sum shall immediately be paid out of Court to the plaintiff.

If no tender made, defendant may pay into Court what he admits with costs.

If after such payment the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into Court, he shall be charged with all costs incurred by the defendant subsequently to such payment; but, if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall be charged with costs as upon a suit originally instituted for the whole amount for which the plaintiff ultimately obtains a decree, but shall have credit thereout for the amount of costs paid into Court by him in the first instance.

Costs if plaintiff goes on with suit.

85. No interest shall be allowed to the plaintiff on any sum paid by the defendant into Court from the date of such payment, whether such sum be in full of his claim or fall short thereof.

No interest on deposits.

86. If on the trial of a suit for the delivery of a pattá instituted by a raiyat having a right of occupancy the parties do not agree as to the term for which the pattá is to be granted, the Deputy Commissioner shall fix such term as under the circumstances of the case he may think just and proper:

If in suit for delivery of pattá parties do not agree as to time for which it is granted, Deputy Commissioner to fix time.

Provided that the term shall not in any case be longer than twenty years, and in estates not permanently settled shall not extend beyond the period for which the proprietor of the estate has engaged with Government:

Provided also that, if the defendant be a farmer or other person having only a temporary interest in the land, the term of the pattá shall not extend beyond the period of the continuance of such interest.

For cultivators not having a right of occupancy the term of pattá shall be exclusively in the discretion of the person entitled to the rent of the land.

87. When in any suit between a landholder and a raiyat or under-tenant under this Act the right to receive the rent of the land or tenure cultivated or held by the raiyat or under-tenant is disputed, and such right is claimed by or on behalf a third person, on the ground that such third person, or a person through whom he claims, has actually and in good faith received and enjoyed such rent before and up to the time of the commencement of the suit, such third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such third person shall be enquired into, and the suit shall be decided according to the result of such enquiry:

In actions for rent third person appearing as claimant, to be made party to suit.

Provided that the decision of the Deputy Commissioner shall not affect the

right of either party, who may have a legal title to the rent of such land or tenure, to establish his title by suit in a Civil Court, if instituted within one year from the date of the decision.

Suits for ejectment or cancelment of lease.

88. Any person desiring to eject a raiyat, or to cancel a lease on account of non-payment of arrears of rent, may sue for such ejectment or cancelment and for recovery of the arrear in the same action, or may adduce any unexecuted decree for arrears of rent as evidence of the existence of such arrears in a suit for such ejectment or cancelment.

In all cases of suits for the ejectment of a raiyat or the cancelment of a lease the decree shall specify the amount of the arrear; and if such amount, together with interest and costs of suit, be paid into Court within fifteen days from the date of the decree, execution shall be stayed.

Judgment how pronounced.

89. The Deputy Commissioner shall pronounce judgment in open Court. The judgment shall be written in the vernacular language of the Deputy Commissioner, and shall contain the reasons for the same, and shall be dated and signed by the Deputy Commissioner at the time when it is pronounced:

Provided that any judgment may be written in English, if the Deputy Commissioner be sufficiently acquainted with the English language.

When Court may award to plaintiff additional damages not exceeding 25 per cent.

90. In any suit for rent under this Act, if it appears to the Court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount due from him,

and that he has not, before the institution of the suit, tendered such amount to the plaintiff or his duly authorized agent, or, in case of refusal of the plaintiff or such agent to receive the amount tendered, has not deposited such amount with the Deputy Commissioner before the institution of the suit in manner hereinbefore mentioned,

the Court may award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five per centum on the amount of rent decreed, as the Court may think fit;

and such damages, if awarded, as well as the amount of rent and costs decreed in the suit, shall carry interest from the date of decree until payment thereof at such rate per centum as the Deputy Commissioner deems reasonable.

Court may award compensation, not exceeding 25 per cent. on amount sued for, to

91. In any suit for rent under this Act, if it appears to the Court that the plaintiff has instituted the suit against the defendant without reasonable or probable cause,

or that the defendant, before the institution of the suit, duly deposited with the Deputy Commissioner in the manner hereinafter mentioned the full

amount which the Court shall find to have been due to the plaintiff at the date of such deposit,

defendant improperly sued.

the Court may award to the defendant by way of compensation such sum, not exceeding twenty-five per centum on the whole amount claimed by the plaintiff, as the Court may think fit;

and such sum, with interest until payment thereof at such rate per centum as the Deputy Commissioner deems reasonable, shall be recoverable from the plaintiff in like manner as sums decreed to be paid by defendants under this Act.

If person required by decree refuse to grant pattá, Deputy Commissioner may do so.

92. When a decree is given for the delivery of a pattá, if the person required by the decree to grant such pattá refuses or delays to grant the same, the Deputy Commissioner may grant a pattá in conformity with the terms of the decree under his own hand and seal, and such pattá shall be of the same force and effect as if granted by the person aforesaid.

Refusal of person to execute kabúliyat as required by decree.

93. When a decree is given for the delivery of a kabúliyat, if the person required by the decree to execute such kabúliyat refuses to execute the same, the decree shall be evidence of the amount of rent claimable from such person, and a copy of the decree under the hand and seal of the Deputy Commissioner shall be of the same force and effect as a kabúliyat executed by the said person.

Mode of executing decree for ejectment or reinstatement of raiyat.

94. If the decree is for the ejectment of any raiyat from land occupied by him, or for the reinstatement of any raiyat in the occupancy of land from which he has been ejected, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree to such possession or occupancy.

Procedure in case of opposition to execution.

If any opposition is made to the execution of the order for giving such possession or occupancy by the party against whom the order is made, the Deputy Commissioner, in the exercise of his powers as a Magistrate, shall give effect to the same.

Mode of executing decree for cancelment of lease, or for ejectment or reinstatement of farmer or tenant.

95. If the decree is for the cancelment of any lease, or the ejectment of any farmer or other person (not being an actual cultivator), or for the reinstatement of any farmer or other such person in the possession of a farm or tenure from which he has been ejected, the decree shall be executed by proclaiming the substance of the decree to the cultivators or other occupants by beat of drum, or in such other manner as may be customary, and affixing the same in some conspicuous place within, or adjacent to, the farm or tenure.

When judgment-debtor may be detained or imprisoned

96. If the decree is for arrears of rent, or for money, papers or accounts, and the defendant has been committed to jail, or appears pursuant to the conditions of any security-bond given under section 59, the Deputy Commissioner may order that he be detained in, or committed to, the civil jail, unless he

without issue of execution.

immediately pay into Court the amount of the decree with costs, or otherwise comply with the terms of the decree.

Liability of surety on failure to deliver judgment-debtor into custody.

97. If the judgment-debtor has given security for his appearance, and is not present when judgment is pronounced, and the surety fails to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due from the debtor had been passed against the surety.

If the decree is for the delivery of papers or accounts, and the defendant is not present when judgment is pronounced, and the surety fails to deliver him into custody when required so to do, execution may be taken out against the surety for the sum due under the bond in the same manner as if a decree for that sum had been passed against the surety.

Attachment before judgment.

98. The provisions relating to attachment before judgment, contained in the Code of Civil Procedure,[a] are hereby extended to all suits under this Act. XIV of 1882.

Issue of process of execution.

99. Process of execution may be issued against either the person or the property of a judgment-debtor, but process shall not be issued simultaneously against both person and property.

Process of execution against the person or moveable property of a debtor shall be in the form contained in Schedule H or I hereto annexed, or to the like effect.

Application for execution against moveable property.

100. Any moveable property required to be seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor, but, if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects to the amount of the judgment and cost.

In either case the property to be seized shall be pointed out to the officer entrusted with the execution of the process by the creditor or his agent.

Duration of warrant.

101. Every warrant of execution shall bear date on the day on which it is signed by the Deputy Commissioner, and shall continue in force for such period as the Deputy Commissioner may direct, not being more than sixty days from such date.

Second and successive warrants.

102. Second and successive warrants of execution may be issued by order of the Deputy Commissioner on the application of the judgment-creditor, after the expiration of the period fixed for the continuance in force of a previous warrant.

After one year execution not to issue without notice.

103. Process of execution shall not be issued upon any judgment without previous notice to the party against whom execution is applied for, if, when application for the issue of the process is made, a period of more than one year

[a] See Act XIV of 1882, s. 3, and Chap. XXXIV B, in General Acts, 1882 84, pp. 32, 156.

shall have elapsed from the date of the judgment, or from the date of the last previous application for execution.

104. Execution on a judgment shall not issue against the heir or other representative of a deceased party without notice to such heir or other representative to appear and be heard.

Bar to execution against representative without notice.

105. No process of execution of any description whatsoever shall be issued on a judgment under this Act unless an application be made within three years from the date of such judgment.

No process of execution to issue three years after judgment.

106. If a warrant is issued for taking in execution the body of any person, the officer charged with the execution of the warrant shall bring him with all convenient speed before the Deputy Commissioner.

Warrant against person.

If such person does not then deposit in Court the full amount specified in the warrant, or make such arrangement for the payment of the same as shall be satisfactory to the judgment-creditor, or satisfy the Deputy Commissioner that he has no present means of paying the debt, the Deputy Commissioner shall send him to the civil jail, there to remain for such time as shall be directed by a warrant addressed to the keeper of the jail, unless he shall in the meantime pay the full amount for the payment of which he is liable under the decree:

Provided that no person shall be imprisoned in execution of a decree under this Act for a longer period than six months,

or for a longer period than six weeks, if the decree is for the payment of a sum of money not exceeding fifty rupees.

If the decree against any person arrested under a warrant is for the delivery of papers or accounts, and the papers or accounts are not delivered by him when he is brought before the Deputy Commissioner, such person may be committed to the civil jail, there to remain for such time, not exceeding six months, as the Deputy Commissioner shall direct, unless he shall in the meantime deliver the papers or accounts according to the terms of the decree.

If arrest be for non-delivery of accounts.

107. Any person once discharged from jail shall not be imprisoned a second time under the same judgment.

No second imprisonment under same judgment.

If the amount due under the decree does not exceed fifty rupees, the Deputy Commissioner may declare such discharged person absolved from liability under that decree.

In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or exempt property belonging to such person from attachment in execution of the same.

108. Any person applying for a warrant of arrest under section 57, or suing out process of execution against the body of any person, shall deposit in

Diet-money to be deposited at time of

issue of warrant.

Court, at the time of issue of the warrant, diet-money for thirty days at such rate as the Deputy Commissioner may direct.

Payment of diet-money in advance during imprisonment.

109. Payment of diet-money at the same rate shall be made previously to the commencement of each succeeding month of the imprisonment, in failure of which the party confined shall be discharged.

Diet-money to be costs in suit.

110. All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit, and any diet-money not so spent shall be returned to the person who deposited the same.

List of property to be prepared and proclamation of sale to be published, &c.

111. In executing a writ of execution against the moveable property of a debtor liable under this Act, the officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation specifying the day upon which the sale is intended to be held, together with a copy of the said list, at the intended place of sale and at the residence of the debtor.

A copy of the said proclamation and list shall be transmitted to the Deputy Commissioner and shall be affixed in his office.

Until the day of sale the said property shall remain in the custody of the officer attaching the same.

Place and manner of sale of property.

112. The sale shall be held at the place where the property is deposited, or at the nearest ganj, bázár, hát or other place of public resort, if the officer holding the sale is of opinion that it is likely to sell there to better advantage.

The property shall be sold by public auction, in one or more lots as the officer holding the sale may think advisable; and, if the judgment-debt with the costs of the execution and sale is satisfied by the sale of a portion of the property, the execution shall be immediately withdrawn with respect to the remainder.

If fair price be not offered, sale may be postponed, and shall be then completed at any offer.

113. If on the property being put up for sale a fair price, in the estimation of the officer holding the sale, is not offered for it, and the owner of the property, or some person authorized to act on his behalf, applies to have the sale postponed until the next day, or the next market-day, if a market be held at the place of sale, the sale shall be postponed until such day, and shall be then completed at whatever price may be offered for the property.

Payment of purchase-money.

114. The price of every lot shall be paid for in ready money at the time of sale, or as soon after as the officer holding the sale shall think necessary; and, in default of such payment, the property shall be put up again and sold.

When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

115. From the proceeds of the sale of the property the officer holding the sale shall make a deduction, at the rate of one anna in the rupee, on account of the costs of the sale, and shall transmit the amount to the Deputy Commissioner in order that it may be credited to Government.

Proceeds of sale.

The said officer shall then pay to the judgment-creditor the expenses incurred by the judgment-creditor on account of the preparation of the list, and of the publication of the proclamation of sale prescribed in section 111, to such amount as, after examination of the statement of expenses furnished by the judgment-creditor, he thinks proper to allow.

The remainder shall be applied to the discharge of the debt for which the sale was made, with interest thereon up to the day of sale, and if there be any surplus it shall be delivered to the person whose property has been sold.

116. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such officers, are prohibited from purchasing either directly or indirectly any property sold by such officers.

Officers prohibited from purchasing.

117. No sale of any moveable property taken in execution shall be made until after the end of ten days next following the day on which such property may have been so taken.

Sale of moveable property taken in execution.

118. If before the day fixed for the sale a third party appears before the Deputy Commissioner and claims a right or interest in any of the moveable property taken in execution, the Deputy Commissioner shall examine such party or his agent according to the law for the time being in force relating to the examination of witnesses, and, if he see sufficient reason for so doing, may stay the sale of such property.

Deputy Commissioner may stay sale of moveable property seized if third party claim interest therein.

119. The Deputy Commissioner shall adjudicate upon such claim, and make such order between the claimant and the plaintiff and the defendant in the original suit as shall to him seem fit.

Deputy Commissioner to adjudicate claims.

In trying such claim the Deputy Commissioner shall be guided by the provisions of this Act, so far as they may be applicable.

120. If the claimant fails to establish his right to the property taken in execution, the Deputy Commissioner at the time of disposing of the case may award to the judgment-creditor against such claimant, as part of the costs, such sum as he may consider sufficient to cover any loss of interest or damage which the judgment-creditor may have sustained by reason of the postponement of the sale of the property.

Claimant failing to establish right, liable to compensate judgment-creditor.

121. No appeal shall lie from any order passed by the Deputy Commissioner under the last two preceding sections.

No appeal from order of Deputy Commissioner

But the party against whom the same may be given shall be at liberty to

under sections 119, 120.

bring a suit in the Civil Court to establish his right at any time within one year from the date of the order:

Provided that, if the order be for the sale of the property, the suit shall not be for the recovery of the property, but for damages against the judgment-creditor by whom the property was brought to sale.

Sale not vitiated by irregularity in publishing or conducting same.

122. No irregularity in publishing or conducting a sale of moveable property under an execution shall vitiate such sale; but nothing contained in this section shall be held to deprive any person who may sustain damage by reason of such irregularity from recovering such damage by action in the Civil Court:

Provided such action be brought within one year from the date of sale.

Sale of transferable tenures in execution of decrees for arrears of rent.

123. If the decree is for an arrear of rent due in respect of an under-tenure, which, by the title-deeds or the custom of the country, is transferable by sale, the judgment-creditor may make application for the sale of the tenure, and, with the sanction of the Commissioner, but not otherwise, the tenure may thereupon be brought to sale in execution of the decree, according to the provisions for the sale of under-tenures contained in Bengal Act VIII of 1865.[a]

But no such application shall be received when a warrant of execution has been previously issued against the person or moveable property of the judgment-debtor so long as such warrant remains in force.

If after sale of an under-tenure any portion of the amount decreed remains due, process may be applied for against any other property, moveable or immoveable, belonging to the debtor, and any such immoveable property may be brought to sale in the manner provided in section 129.

Under-tenure held conditionally on survival of heirs male not saleable.

124. No under-tenure which is held conditionally on the survival of heirs male of the grantee, and which on failure of such heirs reverts to the grantor free of all encumbrances made subsequent to the date of the grant, shall be sold under this Act:

Provided that the right and title of any person in such tenure may be sold with the sanction of the Commissioner.

If third party claims to be lawful possessor of under-tenure, Deputy Commissioner to stay sale and adjudicate upon claim.

125. If before the day fixed for the sale of any such under-tenure as is mentioned in section 123, or of the right and title of any person in an under-tenure of the nature described in section 124, a third party appears before the Deputy Commissioner, and alleges that such third party, and not the person against whom the decree has been obtained, is the proprietor of such under-tenure, and was in lawful possession of the same at the time when such decree was obtained,

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[a] See *supra*, p. 42.

the Deputy Commissioner shall examine such party in the manner provided in section 118; and if he sees sufficient reason for so doing, and such party deposits in Court the amount of the decree, or gives sufficient security for the same, the Deputy Commissioner shall stay the sale and proceed to enquire into and adjudicate upon the claim:

Provided that no transfer of an under-tenure which by the provisions of this Act or any other law for the time being in force is required to be registered in the sarishta of the zamindár or superior tenant shall be recognized unless it has been so registered, or unless sufficient cause for non-registration is shown to the satisfaction of the Deputy Commissioner.

Mode of adjudicating claims.

126. In trying such claim the Deputy Commissioner shall be guided by the provisions of this Act, so far as the same may be applicable, and the judgment passed by the Deputy Commissioner on such claim shall not be subject to appeal, but the party against whom it is given may bring a suit in the Civil Court to establish his right at any time within one year from the date of the judgment.

Execution of decrees given in favour of sharers in undivided estates or tenures.

127. If a decree is given in favour of a sharer in a joint undivided estate, dependent taluq or other similar tenure, for money due to him on account of his share of the rent of an under-tenure situate in such undivided estate, taluq or tenure, application for the sale of such under-tenure shall not be received unless execution shall have been first taken out against any moveable property which the judgment-debtor may possess within the district in which the suit was instituted, and the sale of such property, if any, shall have proved insufficient to satisfy the judgment.

In such case the under-tenure, if of the nature described in section 123 and not of the nature described in section 124, may, with the sanction of the Commissioner, but not otherwise, be brought to sale in execution of the decree in the same manner as any other immoveable property may be sold in execution of a decree for money under the provisions of the next two succeeding sections.

Execution against immoveable property in certain cases, if judgment not satisfied by sale of moveables.

128. In the execution of any decree for the payment of money under this Act, not being money due as arrears of rent of a saleable under-tenure, or of a tenure the right and title in which is saleable, if satisfaction of the judgment cannot be obtained by execution against the person or moveable property of the debtor within the district in which the suit was instituted, the judgment-creditor may apply for execution against any immoveable property belonging to such debtor, and such immoveable property may, with the sanction of the Commissioner, but not otherwise, be brought to sale in the manner described in the next succeeding section.

Mode of executing process if immoveable property be a building.

129. If the immoveable property against which execution is applied for is a house or other building, process shall be issued in the same manner as for the attachment and sale of moveable property, and the provisions of sections 111 to 117 (both inclusive) shall, so far as may be practicable, be applicable to the execution of such process.

If it be saleable under-tenure.

If the property is a saleable under-tenure, it shall be sold under the provisions of the law for the time being in force in the Lower Provinces of Bengal applicable to the sale of such under-tenures for demands other than those of arrears of rent due in respect thereof.

If it be an estate or share of an estate.

If the property is an estate, or a share of an estate, it shall be sold under the provisions of the law for the time being in force in the Lower Provinces of Bengal applicable to the sale of estates for the recovery of demands recoverable by the same process as arrears of land-revenue.

Consequence of objection offered before sale of immoveable property.

130. If, before the day fixed for the sale of any immoveable property as aforesaid objection is offered to the sale on the ground of such property not belonging to the judgment-debtor, the Deputy Commissioner shall examine the party making the objection in the manner prescribed in section 118, and, if satisfied that there is sufficient ground for so doing, shall stay the sale and proceed to enquire into, and adjudicate upon, the objection, in the same manner, and subject to the same right of suit by the party against whom judgment may be given, as is provided in section 126.

Service of process.

131. Every process issued by a Deputy Commissioner under this Act shall be under the seal and the signature of the Deputy Commissioner, and shall be served or executed by the nazir, or by such other officer as the Deputy Commissioner may direct, at the cost of the party at whose instance it issued.

Deputy Commissioner may hold Court in any part of jurisdiction.

132. The Deputy Commissioner may hold a Court for hearing and determining suits under this Act in any place within the limits of his district or local jurisdiction:

Provided that every hearing and decision shall be in open Court, and that the parties to the suit, or their authorized agents, shall have had due notice to attend at such place.

Power of Deputy Collectors.

133. All the powers conferred on the Deputy Commissioner by this Act may be exercised by any Deputy Collector in cases referred to him by a Deputy Commissioner; and, in all cases without such reference, by any Deputy Collector placed in charge of any subdivision of a district, or specially authorized by the Local Government to receive such cases;

and all applications and reports allowed or required by this Act to be made to the Deputy Commissioner may be made to any Deputy Collector having such local jurisdiction, or specially authorized as aforesaid.

134. In the performance of their duties under this Act, the Deputy Commissioners and Deputy Collectors shall be subject to the general direction and control of the Commissioner and the Board of Revenue; and the Deputy Collectors shall be subject to the direction and control of the Deputy Commissioner to whom they are subordinate.

Control of Deputy Commissioners and Deputy Collectors.

135. All orders passed by a Deputy Commissioner under this Act, not being judgments in suits or orders passed in the course of suits and relating to the trial thereof, or orders passed after decree and relating to the execution thereof, shall be appealable to the Commissioner, and all such orders passed by a Deputy Collector shall be appealable to the Deputy Commissioner;

but no judgment of a Deputy Commissioner or Deputy Collector in any suit, and no order of a Deputy Commissioner or Deputy Collector passed in any suit and relating to the trial thereof, or after decree and relating to the execution thereof, shall be open to revision or appeal otherwise than as expressly provided in this Act.

Appeal from orders of Deputy Commissioner and Deputy Collectors.

136. Every appeal against the order of a Deputy Commissioner shall be presented to the Commissioner within thirty days, and every appeal against the order of a Deputy Collector shall be presented to the Deputy Commissioner within fifteen days from the date of the order.

Orders passed in appeal by a Commissioner or a Deputy Commissioner shall not be open to any further appeal; but the Board of Revenue or the Commissioner may call for any case and pass such orders thereon as they may think proper.

Time for presenting appeals from orders.

137. In suits under clauses 2, 4 and 7 of section 37, tried and decided by a Deputy Commissioner, if the amount sued for, or the value of the property claimed, does not exceed one hundred rupees, the judgment of the Deputy Commissioner shall be final, and not open to revision or appeal except as hereinafter provided, unless in any such suit a question relating to a title to land, or to some interest in land as between parties having conflicting claims thereto, has been determined by the judgment, in which case the judgment shall be open to appeal in the manner provided in section 144.

No appeal from decree of Deputy Commissioner for money below one hundred rupees unless decision involve certain question.

138. In suits in which the judgment of the Deputy Commissioner is final, as provided in the last preceding section, the Deputy Commissioner may, upon the application of either party, if made within thirty days from the date of the decision, order the rehearing of a suit upon the ground of the discovery of new evidence or matter material to the issue of the case, which the applicant had no knowlege of, or could not produce, at the time of trial.

In suits not open to appeal, Deputy Commissioner may grant rehearing on discovery of new evidence, &c.

139. When any such suit as aforesaid, in which, if tried and decided by a

Appeal from

decision of Deputy Collector.

Deputy Commissioner, the judgment of the Deputy Commissioner would be final, is tried and decided by a Deputy Collector, an appeal from the judgment of the Deputy Collector shall lie to the Deputy Commissioner.

Period allowed for appeal.

140. The petition of appeal shall be presented to the Deputy Commissioner within fifteen days from the date of decree:

Provided that such time as may be requisite for procuring a copy of the decree appealed against shall not be reckoned as part of the fifteen days.

Procedure in appeal.

141. The Deputy Commissioner shall fix a day for hearing the appeal, and shall cause notice of the same to be served on the respondent.

If on the day fixed for hearing the appeal, or any other day to which the hearing may be adjourned, the appellant does not appear in person or by an agent, the appeal shall be dismissed for default.

If the appellant appears, and the respondent does not appear in person or by an agent, the appeal shall be heard *ex parte*.

Re-admission of appeal.

142. If an appeal is dismissed for default of prosecution, the appellant may, within fifteen days from the date of the dismissal, apply to the Deputy Commissioner for the re-admission of the appeal; and, if it shall be proved to the satisfaction of the Deputy Commissioner that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Deputy Commissioner may re-admit the appeal.

Judgment in appeal.

143. After hearing the appeal, the Deputy Commissioner shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits, and the judgment of the Deputy Commissioner shall be final.

In what suits appeal to lie to Judicial Commissioner or High Court.

144. In all suits other than those in which, when tried and decided by a Deputy Commissioner, the judgment of the Deputy Commissioner is declared to be final, or when tried and decided by a Deputy Collector an appeal is allowed to the Deputy Commissioner, an appeal from the judgment of the Deputy Commissioner or Deputy Collector shall lie to the Judicial Commissioner of the division, unless the amount or value in dispute exceed five thousand rupees, in which case the appeal shall lie to the High Court.

Limitation of appeals.

145. Appeals to the Judicial Commissioner or to the High Court under this Act shall be presented within the time prescribed for the presentation of appeals to a District Judge or to the High Court under the Code of Civil Procedure[a] by the law for the time being in force for the limitation of appeals. XIV of 188

Suits to be preferred in revenue-office

146. Suits under this Act shall be preferred in the revenue-office of the district;

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[a] See Act XIV of 1882, s. 3, in General Acts, 1882–84, p. 32.

or, when a subdivision of a district has been placed under the jurisdiction of a Deputy Collector, in the revenue-office of the subdivision in which the cause of action shall have arisen;

of district in which greater part of land is situate.

or, when the cause of action has arisen within the limits of the local jurisdiction of any Deputy Collector not in charge of a subdivision, but who has been specially authorized by the Local Government to receive such suits, then in the office of such last-mentioned Deputy Collector

Provided that the Deputy Commissioner may withdraw any suit from any Deputy Collector and try it himself, or refer it to another Deputy Collector.

Procedure if lands are situated in more than one district or subdivision.

147. If the lands comprised in any taluq, farm or other tenure, or any lands held under one lease or engagement, or at one entire rent, in respect of which arrears of rent may be due, are situated in more than one district or subdivision, the district or subdivision in which the greater part of such lands is situated shall be held to be the district or subdivision in which the cause of action has arisen;

and, if any question shall be raised respecting the district or subdivision in which the greater part of the lands is situated, the Board of Revenue, or, if all the lands are situated in one district, the Deputy Commissioner of the district, shall decide the question, and such decision shall be conclusive on the point of jurisdiction.

Except as above, Deputy Commissioner not to exercise jurisdiction as to lands situate beyond district.

148. Except as provided in the last preceding section, no Deputy Commissioner shall exercise any jurisdiction under this Act in respect of any lands situated beyond the limits of the district to which he is appointed, by reason of such lands forming part of an estate the revenue of which is paid into the treasury of the said district.

Service of notice or summons.

149. Every notice or summons in and by this Act required to be served on any person may be served—

(1) by delivering the same to the person to whom it is directed;

or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person usually resides;

or by delivering the said notice or summons to a general agent of the person to whom such notice or summons is directed, or to any person who has been appointed in that behalf; or

(2) by sending a registered letter containing such notice or summons directed to the said person at his usual place of abode;

(3) or, if no such place of abode can be found, and if the notice or summons cannot be served in any of the other modes mentioned in this section, by posting the same at the bhandhar of the village or holding to which the notice or summons relates.

Saving clause.

150. Nothing contained in this Act shall be held to affect the provisions of Bengal Act II of 1869,[a] or of Bengal Act VI of 1876.[b]

SCHEDULE A.

(*See section 3.*)

Being Acts repealed in the Territories to which this Act extends.

Date and No. of Act.	Title of Act.	Extent of repeal.
Act X of 1859[c] ...	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The whole Act.
Act VI of 1862,[d] passed by the Lieutenant-Governor of Bengal in Council.	An Act to amend Act X of 1859 ...	The whole Act.
Act IV of 1867,[e] passed by the Lieutenant-Governor of Bengal in Council.	An Act to explain and amend Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The whole Act.

SCHEDULE B.*

(*See section 14.*)

I, *A. B.*, of &c., do solemnly declare that I did personally (*or* by my agent *C. D.*) on the day of tender payment to *E. F.*, at his malkachahri (*or* at), the place where the rent of the lands at held or cultivated by me under or from the said *E. F.* are usually payable, of the sum of rupees as and for the whole amount due from me in respect of the rent of the said lands from the month of to the month of , both inclusive. I further declare that the said *E. F.* refused to accept the said sum so tendered (*or* to give me a receipt in full forthwith for the same). And I do declare that to the best of my belief the sum of rupees so tendered, and which I now desire to pay into Court, is the full amount which I owe the said *E. F.* on account of the rent of the said lands from the month of to the month of , both inclusive, and that I owe the said *E. F.* no further sum on account of the rent of the said lands.

* *If this declaration is made by an agent, it must be altered accordingly.*

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[a] See *supra*, p. 123. [b] Ben. Act VI of 1876 is not reprinted, as it has expired.
[c] See Vol. I, p. 543. [d] See *supra*, p. 3. [e] See *supra*, p. 110.

SCHEDULE C.*

(*See section 14.*).

Court of the Deputy Commissioner of
Dated the day of 18

To *E F* of, *&c.*

WITH reference to the within declaration, you are hereby informed that the sum of rupees therein mentioned is now in deposit in this Court, and that the above sum will be paid to you or to your duly authorized agent on application. And take notice that, if you have any further claim or demand whatsoever to make against the said *A B* in respect of the rent of the said lands, you must institute a suit in Court for the establishment of such claim or demand within six calendar months from this date, otherwise your claim will be for ever barred.

* *This is to be by endorsement on a copy of the declaration under Schedule B made by the person paying the money into Court.*

SCHEDULE D.

(*See section 55.*)

FORM OF SUMMONS TO DEFENDANT.

No. (*of suit*) dated

In the Court of

A B, Plaintiff.

[*Name, description and address of plaintiff.*]

C D, Defendant.

[*Name, description and address of defendant.*]

Whereas the said *A B* has brought a claim against you in this Court for [*here specify particulars of claim as given in the statement*] you are hereby required to appear in person in this Court on the day of [*if not specially required to appear in person, state* "in person or by an agent who has personal knowledge of the subject, or who shall be accompanied by a person who has such knowledge"] to answer the above-named plaintiff, and you will bring with you (*or* send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and all documents on which you may intend to rely in support of your defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

SCHEDULE E.

(*See section 57.*)

FORM OF WARRANT OF ARREST.

No. (*of suit*) dated

In the Court of

A B, Plaintiff.
C D, Defendant.

To

The Nazir of the Court of the Deputy Commissioner of .

Whereas the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the day of to be dealt with according to law.

Dated this day of 18

SCHEDULE F.

(*See section 57.*)

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of

A B, Plaintiff.
[*Name, description and address of plaintiff.*]
C D, Defendant.
[*Name, description and address of defendant.*]

Whereas the said *A B* has brought a claim against you in this Court for (*here specify particulars of claim as given in the statement*) and has obtained a warrant for your arrest, you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

SCHEDULE G.

(*See section 59.*)

FORM OF SECURITY-BOND FOR APPEARANCE OF DEFENDANT.

Whereas *A B*, plaintiff, has instituted a suit in the Court of the Deputy Commissioner of against *C D*, defendant, and the said *C D* has been required to give security for his appearance at any time when called on while the suit is depending and until execution of the decree, I, *E F*, hereby declare myself surety for the said *C D's* appearance as aforesaid, and, in case

of his making default in such appearance, I engage to pay any sum for the payment of which the said *C D* may be liable under the decree. *If the suit be for the delivery of papers or accounts, specify some sum to be fixed by the Deputy Commissioner.*

SCHEDULE H.

(*See section 99.*)

WRIT OF EXECUTION AGAINST THE PERSON.

A B, Plaintiff.
C D, Defendant.

To

The Nazir of the Court of the Deputy Commissioner of

Whereas the said *C D* was directed by a decree of this Court, under date the day of 18 , to pay to *A B* the sum of and for costs of suit, amounting to , and whereas the said *C D* has omitted to pay the same, you are hereby commanded to apprehend the said *C D* and to bring him with all convenient speed before this Court to be dealt with according to law.

SCHEDULE I.

(*See section 99.*)

WRIT OF EXECUTION AGAINST THE MOVEABLE PROPERTY.

A B, Plaintiff.
C D, Defendant.

To

The Nazir of the Court of the Deputy Commissioner of

Whereas *C D* was directed by a decree of this Court, under date the day of 18 , to pay to *A B* the sum of and for costs of suit, amounting to , and whereas the said *C D* has omitted to pay the same, you are hereby commanded to levy the said sum of , and the sum of for costs of executing this process, by seizure and sale of such moveable property of the said *C D* as (is described in the list annexed, and) [*if no list is furnished, these words to be omitted*] shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell such property of the said *C D* on some convenient day, not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner paid;

and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

ACT No. II OF 1879.[a]

Received the Lieutenant-Governor's assent on the 26th February, 1879, and the Governor General's assent on the 22nd March, 1879.

An Act to amend and extend the Pooree Lodging-house Act, 1871.

Preamble.

WHEREAS it is expedient to amend Bengal Act No. IV of 1871,[b] and to give power to the Lieutenant-Governor of Bengal to extend the provisions of the said Act to places other than those specified in section 39 of the said Act; It is enacted as follows:—

Commencement.

1. This Act shall come into force from the date[c] on which it may be published in the Calcutta Gazette with the assent of the Governor General.

Amendment of section 22 of Pooree Lodging-house Act.

2. Section 22 of Bengal Act No. IV of 1871 is repealed and the following section substituted:—

(See *supra*, p. 174.)

Lieutenant-Governor may extend Pooree Lodging-house Act.

3. The Lieutenant-Governor of Bengal may from time to time, by notification in the Calcutta Gazette, extend Bengal Act No. IV of 1871, as amended by this Act, or any part of it, to any town or place[d] to or through which people go on pilgrimage and to the lines of road leading thereto; and

the provisions of the said Act, or of any part of it, as the case may be, shall, from the date of such notification, apply accordingly with the following modifications:—

[e] in section 7, after the word "each" the words "day or" shall be inserted;[e]

in lieu of the word "Pooree" in sections 2, 3, 7 and Schedule B, shall be substituted the name of the place or places mentioned in the notification;

in lieu of the words "the rate of eight annas" in section 8, shall be substituted the words "a rate not exceeding one rupee;"

in lieu of the last five words in section 14, shall be substituted the words "in the character of the vernacular of the district."

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[a] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2.

[b] See *supra*, p. 170.

[c] *i.e.*, the 2nd April, 1879.

[d] For list of places to which Ben. Act IV of 1871, as amended by Ben. Act II of 1879, has been extended, see Appendix.

[e-e] This clause or s. 8 has been inserted by Ben. Act I of 1884, s. 2—see that section, *infra*, p. 667.

ACT No. III OF 1879.

Received the Lieutenant-Governor's assent on the 12th March, 1879, and the Governor General's assent on the 24th April, 1879.

An Act to provide for the periodical inspection of Steam-boilers and Prime-movers attached thereto in the town and suburbs of Calcutta and in Howrah.

WHEREAS it is expedient to provide for the periodical inspection of steam-boilers and prime-movers attached thereto in the town and suburbs of Calcutta and in Howrah; It is enacted as follows:— *Preamble.*

1. This Act extends to the town of Calcutta, to the suburbs of Calcutta,[a] and to Howrah,[b] as from time to time defined in the Calcutta Gazette under the provisions of any law for the time being in force; *Extent.*

and it shall come into force from the date[c] on which it may be published in the Calcutta Gazette with the assent of the Governor General. *Commencement.*

The Lieutenant-Governor of Bengal may, by notification published in the Calcutta Gazette, extend this Act to any place or district,[d] and it shall come into force accordingly from the date which may be named in such notification. *Lieutenant-Governor extend it further.*

It shall not apply to any locomotive engine used upon any railway, or to any steam-vessel in the port of Calcutta.

2. Bengal Act VI of 1864 and Bengal Act III of 1875 are hereby repealed. *Repeal of Ben. Acts V of 1864 and III of 1875.*

But all certificates and rules in force at the commencement of this Act, which were granted or made under either of the said Acts, shall be deemed to have been granted and made respectively under this Act.

3. In this Act, unless there be something repugnant in the subject or context,— *Interpretation.*

"boiler" includes any cylinder or vessel for generating steam under pressure: *"Boiler."*

"prime-mover" includes any steam-engine, fly-wheel, first driving shaft and pulley attached to any such engine: *"Prime-mover."*

"owner" includes any agent or hirer using any boiler or prime-mover. *"Owner."*

4. The Lieutenant-Governor may from time to time make, and, when made, *Power to make rules.*

[a] For boundaries of Calcutta (including the suburbs), see Ben. Act II of 1888, s. 3, *infra*, p. 884.

[b] For boundaries of Howrah, see Notification dated 17th January, 1884, in Calcutta Gazette, 23rd idem, Part I, p. 216. That Notification was issued under Ben. Act V of 1876, which has been repealed, but the Notification is kept in force by Ben. Act III of 1884, s. 2.

[c] *i.e.*, the 7th May, 1879.

[d] For list of places to which this Act has been extended, see Appendix.

revoke, add to and alter, rules for all or any of the following purposes, that is to say :—

(1) for appointing and, when appointed, suspending or removing inspectors under this Act ;

(2) for determining the powers and duties of such inspectors ;

(3) for fixing the fees payable on account of certificates granted under this Act ;

(4) for determining the time for which certificates granted under this Act shall be in force ;

(5) for securing the attendance of assessors and affixing a penalty for non-attendance ;

(6) for regulating the procedure on hearing appeals ;

(7) for carrying out the purposes of this Act.

Such rules shall be published three times in the Calcutta Gazette and shall come into operation at the date of the last publication or at any later period mentioned in the order.

On notice from owner, inspector to examine boiler or prime-mover.

5. The owner of any boiler or prime-mover in respect of which a certificate is not in force in the manner hereinafter described shall, before using the same, give notice to an inspector appointed under this Act of his intention to use or continue to use the same.

The inspector to whom such notice is given shall appoint a time between sunrise and sunset, and within fourteen days from the receipt of such notice, for the inspection of such boiler or prime-mover, and at such time shall carefully examine such boiler or prime-mover, and every part thereof, and the owner or person in charge thereof shall afford to such inspector all reasonable facilities for such examination, and all such information as may reasonably be required.

Inspector may order owner to alter boiler or prime-mover.

6. If on making the inspection the inspector is of opinion that the boiler or prime-mover requires any alteration or addition, he shall serve on the owner or person in charge thereof a written notice requiring him to make such alteration or addition, and no certificate shall be granted in respect of such boiler or prime-mover until such alteration or addition has been made in the manner required by the inspector, or the owner has obtained a certificate under section 9 of this Act.

When inspector to grant certificate.

7. If the inspector is satisfied that such boiler or prime-mover is in good condition, and not so exposed as to be likely to be dangerous,

and, in case any alteration or addition in such boiler or prime-mover has been ordered under the last preceding section, as soon as he is satisfied that such alteration or addition has been properly made,

he shall give to the owner or person in charge thereof a certificate signed by him to that effect in the form in the schedule hereto annexed, on payment, by the owner or person in charge, of such fees as may be fixed under the rules hereinbefore mentioned;

and such certificate shall state the period for which such boiler or prime-mover may be used, and shall cease to be in force on the expiration of such period.

Revocation or suspension of certificate.

8. Any person authorized by the Lieutenant-Governor in that behalf may revoke or suspend any certificate granted under this Act when he has reason to believe—

(1) that such certificate has been fraudulently obtained, or has been granted erroneously, or without sufficient inspection;

(2) that the boiler or prime-mover in respect of which it has been granted is not in charge of a person competent to have charge of it, or has since the granting of such certificate sustained injury, or is not in good condition.

Appeal against refusal, revocation or suspension of certificate.

9. The owner of any boiler or prime-mover dissatisfied with any notice or order under sections 6, 7 or 8 of this Act may, within seven days from receipt thereof, appeal either to some person authorized by the Lieutenant-Governor in that behalf, or to some such person assisted by two experts as assessors.

If such person is satisfied that the owner is entitled to a certificate, he shall, on payment of the fee, grant a certificate in the form in the schedule hereto annexed, or shall allow the former certificate to continue in force, as the case may be, and shall direct that the expenses of the appeal incurred by Government and certified to by him shall be paid out of the fees and penalties realized under this Act.

If such person decides that the owner is not entitled to a certificate, he shall dismiss the appeal, and the expenses of the appeal incurred and certified in manner aforesaid shall be recoverable from the owner as a fine[a] by any Magistrate having jurisdiction in the place where the boiler or prime-mover is situated.

Power of entry of inspectors.

10. Any inspector appointed under this Act may at any time enter into any place where he has reason to believe that a boiler or prime-mover is used, for the purpose of inspecting the same.

Penalties.

11. The owner or person in charge of any boiler or prime-mover who shall use, or, after conviction, continue to use, the same without a certificate duly obtained and in force in respect thereof under this Act, or having obtained a certificate shall, at any reasonable time during the period for which the same

[a] As to recovery of fines, see Ben. Act V of 1867, s. 4, *supra*, p. 112.

may be in force, fail to produce it when called upon to do so by any Magistrate having jurisdiction in the place in which such boiler or prime-mover is situated, or by any person authorized in writing by such Magistrate to demand its production, and

any person who shall prevent an inspector from entering any place or building where the inspector has reason to believe that a boiler or prime-mover is used,

shall be punished with a fine not exceeding five hundred rupees.

Charges within what period to be brought.

12. No charge shall be brought against any person for the recovery of any penalty under this Act before such day as the Lieutenant-Governor shall fix by notification in the Calcutta Gazette; and no charge at all shall be brought without the authority of an inspector appointed under this Act, or after the expiration of six months from the date of the commission of the offence.

Disposal of penalties.

13. All penalties to be levied under this Act shall, subject to the provisions of section 9, be disposed of in such manner as the Lieutenant-Governor shall from time to time direct.

SCHEDULE.

(*See sections 7 and 9.*)

FORM OF CERTIFICATE.

Name of owner.	Description of boiler and age.	Description of prime-mover and age.	Power.	When and where made.	When and where last repaired.	Time for which certificate to be in force.	REMARKS.

I, the undersigned, certify that I have examined the above-named boiler (*or* prime-mover), and to the best of my judgment the boiler (*or* prime-mover), as shown in the above statement, is in good condition, and is not so exposed as to be likely to be dangerous [and (*in case alterations or additions have been ordered*) that the alterations (*or* additions) required by me have been properly made].

A. B.,
Inspector.

ACT No. IV OF 1879.

Received the Lieutenant-Governor's assent on the 15th April, 1879, and the Governor General's assent on the 6th May, 1879.

An Act to repeal certain sections of Bengal Act IV of 1866[a] and to provide for the levy of fees upon certain passenger-boats and steam-ferries.

Preamble.

WHEREAS it is expedient to repeal certain sections of Bengal Act IV of 1866,[a]

[a] See *supra*, p 61.

and to enable the Local Government to levy fees upon passenger-boats and steam-ferries plying for passengers, either wholly within, or partly within and partly without, the limits of the port of Calcutta ;

It is enacted as follows :—

1. Sections 63, 64 and 65 of Bengal Act IV of 1866, the Calcutta Police Act, are hereby repealed. Repeal of sections 63 to 65 of Calcutta Police Act.

2. The Local Government may, by notification published in the Calcutta Gazette, from time to time, prescribe a scale of fees, annual or other, to be paid by the owners of passenger-boats or steam-ferries plying for passengers either wholly within, or partly within and partly without, the limits of the port of Calcutta. Levy of fees on passenger-boats.

3. Whoever, being the owner of any such passenger-boat or steam-ferry, refuses or neglects to pay the fee to which he is liable in accordance with such notification shall be liable to the penalty provided for disobedience to rules made under section 6 of the Indian Ports Act, 1889.[a] Penalty. X of 1889.

4. This Act shall not apply to boats whose voyages ordinarily extend more than thirty miles from the limits of the port of Calcutta. Application of Act.

5. This Act shall come into force on such date[b] as the Lieutenant-Governor of Bengal may direct by notification published as aforesaid. Commencement.

ACT No. VI OF 1879.

Received the Lieutenant-Governor's assent on the 16th April, 1879, and the Governor General's assent on the 20th May, 1879.

An Act to provide for the construction of a steam-tramway between Siligoree and Darjeeling.

WHEREAS a Company has been formed called the Darjeeling Steam Tramway Company, Limited, hereinafter called the Company, for the purpose of constructing, maintaining and working a steam-tramway from Siligoree to Darjeeling ; and whereas an agreement bearing the date the eighth day of April eighteen hundred and seventy-nine has been entered into between Franklin Prestage, Esq., as trustee on behalf of the Company, and the Secretary of State for India in Council, for the above purpose ; and whereas it is expedient that the Company should be authorized to construct, maintain and work a steam-tramway upon the existing cart-road between Siligoree and Darjeeling Preamble.

[a] See Act X of 1889, s. 2 (3).
[b] The 1st July, 1879—see Calcutta Gazette, 25th June, 1879, Pt. I, p. 589.

as aforesaid, and to do all things necessary in that behalf; It is enacted as follows:—

Short title.

1. This Act may be called the Darjeeling Steam Tramway Act;

Commencement.

And it shall come into force from the date[a] on which it may be published in the Calcutta Gazette with the assent of the Governor General.

Power to construct tramway.

2. The Company may construct and maintain upon the said existing cart-road between Siligoree and Darjeeling a tramway, conformable to the specification and conditions set forth in the hereinbefore mentioned agreement between the said trustees for the Company and the said Secretary of State, or any agreement which may hereafter be entered into between the Company and the said Secretary of State, with all proper rails, sidings, stations, offices, warehouses, fixed machinery and other works connected therewith or for the purposes thereof, and use and employ upon such tramway such locomotive engines or other moving power, and such carriages or wagons to be drawn or propelled thereby, as they may deem fit.

Power to obstruct cart-road.

3. The Company may, with the permission of such officer as the Local Government may from time to time empower in that behalf, obstruct the said cart-road, but in such case the Company shall provide such accommodation for the local traffic during such obstruction as the said officer shall direct.

ACT No. VIII OF 1879.[b]

Received the Lieutenant-Governor's assent on the 17th April, 1879, and the Governor General's assent on the 22nd May, 1879.

An Act to define and limit the powers of Settlement-officers.

Preamble.

WHEREAS it is expedient to define and limit the powers of Settlement-officers; It is enacted as follows:—

Extent.

1. This Act extends to all the territories under the administration of the Lieutenant-Governor of Bengal, and

Commencement.

it shall come into force from the date[a] on which it may be published in the Calcutta Gazette with the assent of the Governor General.

Repeal of Ben. Act III of 1878.

2. Bengal Act No. III of 1878 (*an Act to define and limit the powers of Settlement-officers with respect to enhancement of rent*) is hereby repealed.

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[a] *i.e.*, the 4th June, 1879.

[b] This Act has been declared in force, under s. 3 of the Scheduled Districts Act, 1874, in the Districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see Vol. I, p. 679. It has been repealed throughout Bengal (except Calcutta, Orissa and the Scheduled Districts) by Act VIII of 1885.

3. In this Act—

Interpretation.

"Settlement-officer" means the Collector or any officer in charge of the revenue-jurisdiction of a district, and includes any Assistant Commissioner, Deputy Collector or Sub-Deputy Collector whom the Collector or other officer as aforesaid may authorize to conduct the inquiries and proceedings connected with any settlement of land-revenue, and any officer who may be appointed by the Lieutenant-Governor to make any such settlement:

"Settlement-officer."

"under-tenant" means any holder of a heritable and transferable intermediate tenure between the Government and the raiyat other than a zamindár.

Under-tenant.

4. Nothing contained in section 51 of Regulation VIII of 1793,[a] or in sections 13, 14 and 17 of Act X of 1859,[b] or in sections 14, 15 and 18 of Bengal Act VIII of 1869[c] shall affect any settlement-proceedings under Regulation VII of 1822,[d] or under any other law for the time being in force for the regulation of settlements of land-revenue.

Settlement-proceedings not affected by certain enactments.

5. In any such settlement-proceedings the rent recorded as demandable from each raiyat shall, except as herein otherwise provided, be in accordance with the general rates sanctioned or subsequently approved for adoption in such settlement by the revenue-authorities from time to time empowered in that behalf by the Lieutenant-Governor.

Rent to be in accordance with rates sanctioned by the revenue-authorities.

6. The Settlement-officer may, on some one or other of the following grounds and not otherwise, record a higher rent as demandable from any raiyat having a right of occupancy than the rent which was previously paid by him, namely:—

Grounds of enhancement.

(i) that the higher rent so recorded is calculated on rates which are not above the prevailing rates payable by the same class of raiyats for land of a similar description and with similar advantages in the surrounding neighbourhood;

(ii) that the enhancement is not greater than is justified by the increase which has taken place in the productive powers of the land otherwise than by the agency, or at the expense, of the raiyat since the rent of the raiyat was last fixed;

(iii) that the value of the produce of the land has been increased otherwise than by the agency, or at the expense, of the raiyat since the rent of the raiyat was last fixed; and that such higher rent does not bear a higher proportion to the rent of such raiyat as last fixed than the normal price of produce at or about the time of the present

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[a] See Vol. I, p. 26. [b] See Vol. I, pp. 345, 346.
[c] Ben. Act VIII of 1869 has been repealed by Act VIII of 1885.
[d] See Vol. I, p. 179.

settlement bears to the normal price of similar produce which prevailed at or about the time when such rent was last fixed;

(iv) that the value of the produce of the land has been increased otherwise than by the agency, or at the expense, of the raiyat since the last previous settlement of the lands was made; and that such higher rent does not bear a higher proportion to that which would have been the rent of lands of a similar description and the same area, according to the rates of such previous settlement, than the normal price of produce at or about the time of the present settlement bears to the normal price of similar produce which prevailed at or about the time of such previous settlement, as recorded in the papers of such settlement, or as otherwise ascertained and certified by the Settlement-officer;

(v) that the quantity of land held by the raiyat has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

Rules for determining rent recorded as demandable.

7. The rent recorded as demandable from an under-tenant shall be determined in accordance with the following rules :—

(*a*) Whenever the Settlement-officer shall find any person holding as an under-tenant, he shall first ascertain and record whether the tenure so held is binding as against the Government.

(*b*) If the Settlement-officer finds the tenure to be so binding, the rent recorded as demandable from such under-tenant shall in no case be higher than an amount which shall be ten per cent. below the aggregate of the rents recorded as payable to him from the subordinate under-tenants and raiyats whose holdings fall within his tenure.

(*c*) If the Settlement-officer shall find that the tenure is not binding as against the Government, he shall first determine the proportionate amount of the demand of land-revenue to be assessed upon the lands included in the tenure in accordance with any orders of Government for the time being in force regulating the demand of land-revenue, and shall record the rent payable by such under-tenant at such a sum (not being less than such proportionate amount of land-revenue or more than the aggregate of the rents recorded as payable to him from the subordinate under-tenants and raiyats whose holdings fall within his tenure) as may seem fair and equitable with reference to the character and circumstances of the tenure.

Procedure when rent demandable

8. When the rent demandable from any under-tenant or raiyat is recorded at an amount below that to which the rent of such under-tenant or raiyat

might have been enhanced under this Act, it may be recorded that such under-tenant or raiyat shall from time to time be liable to pay increased rent from such dates as may be fixed by the Settlement-officer, until the rent paid by him reaches the amount which the Settlement-officer may determine to be properly payable by him under this Act.

is recorded below that to which it might have been enhanced.

9. Whenever a higher rent has been recorded as demandable from any under-tenant or raiyat than the rent previously paid by him, the Settlement-officer shall cause to be published a copy of the *jamabandi* or extracts therefrom, specifying in respect of each such under-tenant or raiyat the rent recorded as payable by him, and, in the case of a raiyat, the clause or clauses of section 6 of this Act under which his rent is enhanced.

Service of notice of enhancement.

Such publication may be lawfully made by affixing a copy of the *jamabandi*, or of such extracts therefrom as the Collector may think fit, at the málkachari of the village to which the *jamabandi* relates, or at some other conspicuous place therein, and by proclamation by beat of drum in the said village to the effect that the said copy or extracts have been so affixed, and that the *jamabandi* can be inspected at the office of the Settlement-officer.

10. Every under-tenant and raiyat shall be liable to pay the rent recorded as demandable from him under this Act, unless it shall be proved in any suit instituted by such under-tenant or raiyat to contest his liability to pay the same that such rent has not been assessed in accordance with the provisions of this Act.

Suit to contest rents.

But nothing in clause (*c*) of section 7 of this Act or in this section shall be held to limit the discretion of the Court in determining in any suit under this section the rent of an under-tenant of the class described in the said clause (*c*).

No suit under this section shall be instituted otherwise than within four months after the publication of the *jamabandi* or extracts as aforesaid, in the village in which the lands which are the subject of the suit or any part thereof are situated.

11. In all suits instituted to contest the rent recorded as demandable under this Act the Court shall, if it modifies or sets aside such rent, proceed to determine the rent payable by the plaintiff in accordance with this Act, and, if any arrears of rent at the rates determined by the Court are found to be due, shall make a decree in favour of the defendant for such arrears, with such costs as may seem proper.

Procedure in suits to contest rent recorded as demandable.

12. If publication of the copy of a *jamabandi* or of extracts therefrom as provided in section 9 of this Act is made within the first six months of the year of the era current in the district; the enhancement may take effect from

Enhancement when to take effect.

the beginning of the year in which such publication may have been made; otherwise it shall take effect from the beginning of the next following year.

Rent to hold good for ten years or until expiration of settlement.

13. Rent recorded as demandable under this Act, or fixed by a final decree in any suit as aforesaid, shall not be liable to enhancement until ten years shall have elapsed from the date on which the settlement took effect, or until the period of the settlement shall have expired, whichever may first occur.

Application of Act.

14. The provisions of this Act shall apply to all settlement-proceedings under Regulation VII of 1822[a] which may have been confirmed after the commencement of Bengal Act III of 1878[b] or which may hereafter be confirmed or sanctioned by the revenue-authorities from time to time empowered in that behalf by the Lieutenant-Governor, whether such proceedings shall have been commenced before or after the commencement of the said Act.

ACT No. IX OF 1879.[c]

Received the Lieutenant-Governor's assent on the 15th April, 1879, and the Governor General's assent on the 6th June, 1879.

An Act to amend the law relating to the Court of Wards.

Preamble.

WHEREAS it is expedient to amend the law relating to the Court of Wards within the territories under the administration of the Lieutenant-Governor of Bengal; It is enacted as follows:—

PART I.

PRELIMINARY.

Short title.

1. This Act may be called the Court of Wards' Act, 1879:

Extent.

It extends to all the territories under the administration of the Lieutenant-Governor of Bengal, including the Scheduled Districts of Bengal as defined in the Scheduled Districts Act, 1874[d]; XIV of 1874.

Commencement.

It shall come into force from the date[e] on which it may be published in the Calcutta Gazette with the assent of the Governor General.

Repeal of Acts.

2. Bengal Act IV of 1870 (the Court of Wards' Act), section 11 of Act

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[a] See Vol. I, p. 179.

[b] Ben. Act III of 1878 has been repealed by this Act—see s. 2, *supra*, p. 428.

[c] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2; also in the Districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan, under s. 3 of the Scheduled Districts Act, 1874—see Vol. I, p. 679; it has also been extended to the Districts of Sylhet, Cachar and Goálpára under s. 5 of the Scheduled Districts Act—see Appendix to Assám Supplement.

Ben. Act III of 1881 is (in Bengal and the District of Sylhet) to be read with and taken as part of this Act—see Ben. Act III of 1881, s. 1, *infra*, p. 604.

[d] See General Acts, 1867—76, 2nd Ed., p. 478.

[e] *i.e.*, the 30th July, 1879.

XXXV of 1858,[a] sections 12, 14 and 15 of Act XL of 1858,[b] and so much of section 21 of Act XL of 1858[b] as provides that the Civil Court may direct the Collector to take charge of an estate, are hereby repealed.

All persons and properties which at the commencement of this Act are under the charge of the Court of Wards as constituted by Bengal Act IV of 1870 shall be deemed to be under the charge of the Court of Wards as constituted by this Act.

And all persons and properties which at the commencement of this Act are under the charge of the Collector by virtue of an order of the Civil Court under section 11 of Act XXXV of 1858,[a] or under section 12, section 14 or section 21 of Act XL of 1858,[b] shall from such commencement be deemed to be under the charge of the Court of Wards.

And all rules prescribed, orders or appointments made, and agreements executed under the Court of Wards Act, 1870, and now in force, shall (so far as they are consistent with this Act) be deemed to be respectively prescribed, made and executed under this Act. ı. IV of 0.

And all orders and appointments made by Collectors under Act XXXV of 1858[a] or Act XL of 1858,[b] and now in force, shall (so far as they are consistent with this Act) be deemed to be made under this Act.

And all suits and proceedings now pending, which may have been commenced under the Court of Wards Act, 1870, or by Collectors under Act XXXV of 1858[a] or Act XL of 1858,[b] shall be deemed to be commenced under this Act. ı IV of 0.

3. In this Act, unless there be something repugnant in the subject or context,— Interpretation.

"Collector" includes any officer in charge of the revenue-jurisdiction of a district: "Collector."

"the Court" means the Court of Wards; "Court."

or, when the Court of Wards has delegated any of its powers to a Commissioner or Collector or any other person, it means, in respect of such powers, the Commissioner or Collector or person to whom they are delegated:

"estate" means all lands which are borne on the revenue-roll of a Collector as liable for the payment of one and the same demand of land-revenue: "Estate."

"minor" means a person who has not completed his age of twenty-one years: "Minor."

"section" means a section of this Act: "Section."

"ward" means any person who is under the charge of the Court of Wards, or whose property is under such charge. "Ward."

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[a] For Act XXXV of 1858, see General Acts, 1834—66, 2nd Ed., p. 142.
[b] For Act XL of 1858, see Vol. I, p 332.

Saving of Act XXXIV of 1858 and of jurisdiction of High Courts.

4. Nothing contained in this Act shall affect any of the provisions of Act XXXIV of 1858,[a] or the jurisdiction, as respects infants, of any High Court of Judicature.

PART II.

CONSTITUTION, JURISDICTION AND POWERS OF THE COURT OF WARDS.

Board of Revenue to be Court of Wards.

5. The Board of Revenue shall be the Court of Wards for the territories to which this Act extends.

It shall deal with every person and every property of which it may take or retain charge under this Act, or which may be placed under its charge by order of a competent Court, in accordance with the provisions of this Act.

Disqualified proprietors.

6. Proprietors of estates shall be held disqualified to manage their own property when they are—

(*a*) females declared by the Court incompetent to manage their own property;

(*b*) persons declared by the Court to be minors;

(*c*) persons adjudged by a competent Civil Court to be of unsound mind, and incapable of managing their affairs;

(*d*) persons adjudged by a competent Civil Court to be otherwise rendered incapable by physical defects or infirmities of managing their own property.

Jurisdiction of Court over disqualified proprietors.

7. Whenever the sole proprietor of an estate, or all the joint proprietors of an estate, are disqualified as provided in the last preceding section, the Court shall have power to take charge of all the property of every such proprietor or joint proprietor within its jurisdiction, and of the person of any such proprietor or joint proprietor who is resident within its jurisdiction; and also of the person and property of any minor member of the family of any such proprietor or joint proprietor who has an immediate or reversionary interest in the property of such proprietor or joint proprietor.

Court when bound to give up charge.

8. Whenever the circumstances of any ward become such that the Court could not take charge of him or of his property if he were not under its charge already, the Court shall be bound to release from its charge such person and his property.

Discretion of Court as to taking charge.

9. The Court may in its discretion, in any case in which it is empowered by this Act to take charge of the person and property of any disqualified proprietor,—

(*a*) take charge of such property without taking charge of such person;

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[a] See General Acts, 1834–66, 2nd Ed., p. 135.

(*b*) refrain from taking charge of any such person or property;

(*c*) at any time withdraw from such charge if taken;

(*d*) at any time resume such charge, after having withdrawn from it.

Procedure under Act XL of 1858 and Act XXXV of 1858.

10. Whenever a Civil Court thinks it necessary, under section 9 of Act XL of 1858,[a] to make provision for the charge of the person and property of a minor,

whenever a Civil Court recalls any certificate under section 21 of the said Act,

or whenever a person has been adjudged, under Act XXXV of 1858,[b] to be of unsound mind and incapable of managing his affairs,

if the property of such minor or disqualified proprietor consists, in whole or in part, of land or any interest in land, the Civil Court may apply to the Court of Wards to take charge of the person and property of such minor or disqualified proprietor; and it shall be at the discretion of the Court of Wards to take charge of such person or property or to refuse to do so.

Nothing contained in sections 12 to 19 (both inclusive) of Act XXXV of 1858[b] shall be held to apply to persons or properties under the charge of the Court of Wards.

Procedure when estate is no longer under Court because some proprietors have ceased to be disqualified.

11. Whenever one or more of the joint proprietors of whose properties the Court of Wards has taken charge ceases to be subject to the jurisdiction of the Court of Wards, and the persons and properties of the remaining joint proprietors thereby cease to be subject to the jurisdiction of the Court of Wards, notwithstanding the otherwise continued disqualification of such remaining joint proprietors, the Civil Court which would have jurisdiction under Act XL of 1858[a] may, on the application of the Court of Wards, direct the Court of Wards to retain or resume charge of the persons and properties of the still disqualified proprietors during the continuance of their disqualification, or, subject to the provisions of section 12, for so long as such Civil Court may order.

And, in case any of the proprietors who have ceased to be subject to the jurisdiction of the Court of Wards so consent, the Court of Wards may retain or resume the charge of the properties of such proprietors, or any part thereof, so long as the property of any of the disqualified proprietors remains in charge of the Court of Wards.

Withdrawal from charge by Court.

12. The Court of Wards may at any time withdraw from the charge of any person and property taken under section 10 or under section 11, and from the charge of any person or property which before the commencement of this Act was placed under the charge of the Collector by a Civil Court under

[a] For Act XL of 1858, see Vol. I, p. 332.
[b] For Act XXXV of 1858, see General Acts, 1834–66, 2nd Ed., p. 142.

section 12, section 14 or section 21 of Act XL of 1858,[a] or under section 11 of Act XXXV of 1858[b]:

Provided that it shall give notice of its intention to withdraw to the Civil Court concerned, and that such notice shall be given not less than two months before the Court of Wards shall so withdraw.

Procedure when succession to property disputed.

13. Whenever, on the death of any ward, the succession to his property or any part thereof is in dispute, the Court may either direct that such property or part thereof be made over to any person claiming such property, or may retain charge of the same until the right to possession of the claimant has been determined under Bengal Act VII of 1876,[c] or until the dispute has been determined by a competent Civil Court.

General power of Court.

14. Subject to the provisions of this Act, the Court—

(*a*) may, through its manager, do all such things requisite for the proper care and management of any property of which it may take or retain charge under this Act, or which may be placed under its charge by order of a competent Civil Court, as the proprietor of any such property, if not disqualified, might do for its care and management; and

(*b*) may, in respect of the person of any ward, do all such things as might be lawfully done by the legal guardian of such ward.

Exercise of powers conferred on Court through others.

15. The Court may exercise all or any powers conferred on it by this Act through the Commissioners of the divisions and the Collectors of the districts on which any part of the property of the disqualified proprietor may be situated, or through any other person whom it may appoint for such purpose.

Delegation of powers.

The Court may, with the sanction of the Lieutenant-Governor, from time to time delegate any of its powers to such Commissioners or Collectors or other person as aforesaid, and may at any time with the like sanction revoke such delegation.

Establishments and expenses.

16.[d] The Court may from time to time order such establishments to be entertained and expenses to be incurred as it shall consider requisite for the care and management of the persons and properties under its charge, for

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[a] For Act XL of 1858, see Vol. 1, p. 332.

[b] For Act XXXV of 1858, see General Acts, 1834—66, 2nd Ed., p. 142.

[c] See *supra*, p. 292.

[d] This section has been substituted for the original s. 16 by Ben. Act III of 1881, s. 3 (see *infra*, p. [illegible]), which applies to Bengal and the District of Sylhet. The original section (which applies now in the Districts of Cachar and Goálpára) is as follows:—

Establishment and expenses.

"16. The Court may from time to time order such establishments to be entertained and expenses to be incurred as it shall consider requisite for the care and management of the persons and properties under its charge, for superintendence, for the audit of accounts, and generally for all purposes of this Act,

and may order that the cost of any such establishment and any such expenses be charged against any one or more properties for the purposes of which they are entertained or incurred."

superintendence, for the audit of accounts, and generally for all the purposes of this Act, and may order that such expenses, inclusive of all salaries, gratuities and payments on account of the leave-allowances of such establishments, be charged against any one or more properties for the purposes of which such establishments are, or have been, entertained or such expenses have been incurred.

General contribution for general purposes.

17.[a] The Court may, in respect of such of the establishments and expenses referred to in the last preceding section as are in the judgment of the Court of a general nature, direct that they shall be met by a general contribution from the properties in charge of the Court, to be levied in such manner and in such proportion as the Court may from time to time direct. It shall be, and shall be deemed always to have been, lawful to charge against any fund to which such general contribution may from time to time be, or have been, credited, any salaries, gratuities, leave-allowances or pensions of officers and servants which the Lieutenant-Governor may order, or has already ordered, to be so charged.

Charges for pensions and leave-allowances.

Power to manage property.

18. The Court may sanction the giving of leases or farms of the whole or part of any property under its charge, and may direct the mortgage or sale of any part of such property, and may direct the doing of all such other acts as it may judge to be most for the benefit of the property and the advantage of the ward.

When Court may order property to be formed into separate estate.

19. If the Court thinks it expedient to direct the sale or mortgage of any part of an estate of which the ward is the sole proprietor, it may order the Collector to partition off such part into a separate estate, and the demand of land-revenue and of the cesses for which the original estate was liable shall be assessed upon and divided between the two separate estates so formed, respectively, in such manner as the Court, with the sanction of the Lieutenant-Governor, may direct.

Appointment of managers and guardians.

20. The Court may appoint one or more managers for the property of any ward, and one or more guardians for the care of the person of any ward under the charge of the Court, and may control and remove any manager or guardian so appointed.

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[a] This section has been substituted for the original s. 17 by Ben. Act III of 1881, s. 3 (see *infra*, p. 604), which applies to Bengal and the District of Sylhet. The original section (which applies now in the Districts of Cachar and Goálpára) is as follows:—

General contribution for general purposes.

"17. The Court may, in respect of such of the establishments and expenses referred to in the last preceding section as are of a general nature, direct that they shall be met by a general contribution from the properties benefited thereby, to be levied in such manner and in such proportion as the Court may from time to time direct."

On any disqualified proprietor becoming a ward, the Court may, at its discretion, confirm or refuse to recognize any appointment of a person to be guardian of such disqualified proprietor which may have been made by a will.

Custody, education and residence of wards.

21. The Court may make such orders as to it may seem fit in respect of the custody, education and residence of a minor ward, and such minor members of the ward's family as are under its charge, and in respect of the custody and residence of any ward, not being a minor, whose person is under the charge of the Court.

Allowance for ward and his family.

22. The Court shall allow, for the support of each ward and of his family, such monthly sum as it thinks fit (if any) with regard to the rank and circumstances of the parties.

PART III.

Protection from Sale of certain Estates.

Estate under charge of Court exempt from sale.

23.[a] *Clause 1.*—Except as hereinafter provided by section 23A, every estate, and, subject to the provisions of section 14 of Act XI of 1859,[b] every share or part of an estate for which a separate account has been opened under section 10 or section 11 of the said Act, or under section 70 of Bengal Act VII of 1876,[c] shall be exempt from sale for arrears of Government revenue which have accrued whilst such estate, share or part has been under the charge of the Court:

Recovery of arrears of revenue due at time when estate ceases to be under charge of Court.

Provided that all such arrears of revenue shall be the first charge upon the sale-proceeds of any estate, share or part which may be sold for any other cause than for such arrears of revenue.

Clause 2.—If at the time when such estate, share or part ceases to be under the charge of the Court of Wards, an arrear of revenue is due on account thereof, the Collector may attach such estate, share or part and collect the rent, cesses and other demands due, and all arrears thereof, managing

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[a] This section and section 23A have been substituted for the original s. 23 by Ben. Act III of 1881, s. 4, which applies to Bengal and the District of Sylhet (see *infra*, p. 605). The original section (which applies now in the Districts of Cachar and Goálpára) is as follows:—

Estate under charge of Court exempt from sale.

"23. Every estate, and, subject to the provisions of section 14 of Act XI of 1859,[b] every part or share of an estate for which a separate account has been opened under section 10 or section 11 of the said Act or under section 70 of Bengal Act VII of 1876,[c] shall, whilst it is under the charge of the Court, be exempt from sale for arrears of revenue:

"Provided that all arrears of revenue shall be the first charge upon the proceeds of any such estate, part or share, sold for any other cause than for arrears of revenue while under such charge."

[b] For Act XI of 1859, see Vol. I, p. 380.

[c] See *supra*, p. 314.

such estate, share or part either directly or through a manager, or by farming it for a period not exceeding five years, as he may think fit:

Provided that, when such estate, share or part has been attached under the provisions of this clause, the proceeds shall be paid to the Collector, and the Collector, after deducting the claims of Government for revenue and other public demands, together with any interest which has accrued upon such public demands other than Government revenue, and the charges of management, due up to the date of making such deduction, shall release such estate, share or part from attachment and pay any balance of the proceeds still remaining in his hands to the proprietor of such estate, share or part or to his duly constituted agent, and shall furnish such proprietor or agent with an account of the receipts and expenditure extending over the time when such estate, share or part was under attachment.

Conditions under which estate may be sold for arrear of revenue accrued under Court.

23A.[a] Notwithstanding anything in clause 5, section 8, Regulation I of 1793,[b] or in section 23 of this Act contained, any estate, share or part of an estate on which an arrear of revenue has accrued while under the charge of the Court may at any time be sold under the provisions of the law for the time being in force for the recovery of arrears of Government revenue, if the Court has certified in writing that the interests of the ward require that such estate, share or part be so sold, and has stated in such writing the reasons upon which it has arrived at such conclusion.

Estate belonging to minor not to be sold for arrears of revenue.

24. No estate the sole property of a minor or of two or more minors, and descended to him or them by the regular course of inheritance, or by virtue of the will of, or some settlement made by, some deceased owner thereof, shall be sold for arrears of revenue accruing subsequently to his or their succession to the same, until such minor or one of such minors has completed his age of twenty-one years, but all arrears of revenue shall be the first charge upon the proceeds of such estate if the estate is sold for any other cause during such minority.

But Collector may attach estate.

The Collector may, on an arrear so accruing on any such estate, attach the estate and collect the rents and all arrears of rent due, managing the estate either directly or through a manager or by farming it as he may think fit for a period not exceeding ten years, nor extending beyond the time when such minor or one of such minors completes his age of twenty-one years.

When exemption from sale

25. The exemption from sale for arrears of revenue given by section 24

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[a] Ss. 23 and 23A have been substituted for the original s. 23 by Ben. Act III of 1881, s. 4—see first footnote on preceding page.

[b] See Vol. I, p. 5.

for arrears of revenue applies.

shall only apply to cases in which a written notice of the fact that the estate is the sole property of one or more minors, and entitled to such exemption, has been served on the Collector before the sale.

Application of proceeds of farmed estate.

26. When an estate has been farmed under the provisions of section 24, the proceeds of such farm shall be paid to the Collector, and the Collector, after deducting the amount of the claims of the Government for revenue and other public demands and the charges of management, shall either pay the proceeds to the person authorized to receive them for the proprietor, or shall dispose of them in any of the modes mentioned in section 49 or in section 50.

PART IV.

Ascertainment of Disqualification.

Collector to make enquiry and report as to disqualified proprietors.

27. Whenever any Collector has reason to believe that any person residing in his district, or being the proprietor of an estate borne on the revenue-roll of his district, should be declared or adjudged to be a disqualified proprietor under section 6, he shall make such enquiry as he may deem necessary, and, if satisfied that such person should be so declared or adjudged, shall make a report of the same to the Court;

and the Court shall, on receipt of such report, make such order consistent with this Act as may seem to it expedient.

Power to enforce provisions of Act without report.

28. Nothing in section 27 shall prevent the Court or the Local Government from putting the provisions of this Act in force without any report from the Collector.

Proceedings on death of a proprietor whose heirs are disqualified.

29. Whenever any Collector receives information that the sole proprietor of an estate which is borne on the revenue-roll of his district has died,

or that the sole proprietor of any estate has died within his district,

and such Collector has reason to believe that the heirs of such proprietor should be declared or adjudged to be disqualified under section 6, he may take such steps and make such orders for the safety and preservation of the moveable property of such heirs, and of all deeds, documents or papers relating to the property of such heirs, as to him may seem fit.

Such Collector may call upon any other Collector in whose jurisdiction any such moveable property, or any such deeds, documents or papers may be, to take charge of the same, and thereupon such other Collector shall have the same powers with respect to such property, deeds, documents and papers within his district as are conferred by this section on the first-mentioned Collector.

If the property is not afterwards taken under the charge of the Court, all expenses incurred by a Collector acting under this section shall be recoverable as arrears of revenue from the owner of such property or the person or persons whom the Collector shall find to be in possession of such property, and shall constitute a demand under Bengal Act VII of 1868[a] or any similar law[b] for the time being in force.

Recovery of expenses.

30. A Collector acting under the last preceding section may direct that any person who has the custody of a minor heir of any such deceased proprietor shall produce such minor before such Collector or before any other Collector on a day fixed, and the Collector before whom the minor is so produced may make such order for the temporary custody and protection of such minor as to him may seem fit.

Production of minor proprietor and order for his temporary custody.

If the minor is a female, she shall not be brought into the presence of the Collector, but the Collector may take such steps for her identification as he may think fit.

31. If a sole proprietor of an estate who does not reside within the local limits of the ordinary original civil jurisdiction of the High Court is reported by a Collector to be of unsound mind and incapable of managing his affairs, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply, in pursuance of the provisions of Act XXXV of 1858,[c] to the Civil Court of the district within the jurisdiction of which such proprietor may reside.

Enquiry in case of lunatics.

32. If a sole proprietor of an estate who does not reside within the local limits of the ordinary original civil jurisdiction of the High Court is reported by a Collector to be incapable of managing his property on the ground of some physical defect or infirmity other than unsoundness of mind, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply to the principal Civil Court of the district within which such person may be residing; and, upon such Collector so applying, such Civil Court shall enquire into and determine the question as to the alleged incapacity.

Civil Court to make enquiry regarding disqualification on ground of physical defect or infirmity.

33. If a sole proprietor of an estate who is resident within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal, or resident beyond the territories administered by the Lieutenant-Governor of Bengal, shall be reported by a Collector to be incapable of managing his property by reason of some physical defect or infirmity other than unsoundness of mind, the Court may order the Collector making

Proceedings in case of physical defect or infirmity when proprietor in jurisdiction of High Court.

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[a] See *supra*, p. 116. [b] See now Ben. Act VII of 1880, *infra*, p. 515.
[c] See General Acts, 1834—66, 2nd Ed., p. 142.

such report, or such other Collector as the Court may appoint, to apply to the principal Civil Court of the 24-Pergunnahs, or to such other Civil Court as the Lieutenant-Governor, on application made to him by the Collector in that behalf, may determine.

Such Civil Court shall thereupon enquire into and determine the question as to the alleged incapacity.

Powers of Civil Court when enquiry is instituted under section 32 or 33.

34. When any enquiry is instituted by a Civil Court under section 32 or section 33, such Court shall, for the purposes of making such enquiry, have the powers conferred, and proceed in the manner prescribed, by Act XXXV of 1858[a] with respect to the enquiries directed to be made by the said Act.

The Civil Court shall transmit to the Court of Wards a copy of the order made on each such enquiry, and the Court of Wards shall thereupon, in case the proprietor has been found by the Civil Court to be incapable as aforesaid, make such order, consistent with this Act, as it shall think fit.

The Civil Court shall have, with reference to proprietors who have been adjudged to be incapable as aforesaid, the same powers as are conferred on a Civil Court by section 21 of Act XXXV of 1858,[a] with reference to persons adjudged to be of unsound mind and incapable of managing their affairs.

PART V.

Procedure after Ascertainment of Disqualification.

Order declaring estate under charge of Court.

35. Whenever the Court has determined to take the person or property of a disqualified proprietor under its charge, whether in accordance with an order of the Civil Court or otherwise, the Court shall make an order declaring the fact and directing that possession be taken of such person and property or of such property on behalf of the Court, and the Court shall be held to be in charge of such property from the time when possession shall have been so taken.

Collector to take possession of moveable property.

36. As soon as conveniently may be after an order is made under the provisions of section 35, the Collector of every district within which any part of the ward's property may be situated, or some person authorized in writing by him in that behalf, shall take possession of all accounts, papers and moveable property of the ward, and place under proper custody such portion thereof as he may think necessary.

Any such Collector, or some person authorized as aforesaid, may, in case he has reason to believe that any such account, paper or property is in any

[a] For Act XXXV of 1858, see General Acts, 1834—66, 2nd Ed., p 142.

room, box or receptacle within any house in the actual possession of the ward, break open the same for the purpose of searching for such account, paper or property.

Additional powers of Collector.

37. Any such Collector may also order all persons in the employ of the ward, or all persons who were in the employ of the deceased proprietor from whom the ward has derived his property, to attend before him,

and may order any person to deliver up any accounts, papers or moveable property belonging to the ward, or any accounts or papers relating to the ward's property, which the Collector has reason to believe are in such person's possession,

and may order all holders of tenures and under-tenures on such property to produce their titles to such tenures and under-tenures.

PART VI.

MANAGEMENT AND GUARDIANSHIP.

Collector when to be deemed manager.

38. If no manager of the property of a ward is appointed by the Court, the Collector of the district in which the greater part of such property is situated, or any other Collector whom the Court may appoint in that behalf, shall be competent to do, under the orders of the Court, anything that might be lawfully done by the manager of such property.

Powers of manager.

39. Every manager appointed by the Court shall have power to manage all property which may be committed to his charge, to collect the rents of the land entrusted to him, as well as all other money due to the ward, and to grant receipts therefor;

and may, under the orders of the Court, grant or renew such leases and farms as may be necessary for the good management of the property.

General duty of manager.

40. Every manager shall manage the property committed to him diligently and faithfully for the benefit of the proprietor, and shall in every respect act to the best of his judgment for the ward's interest as if the property were his own.

Specific duties of manager.

41. Every manager appointed by the Court shall—

(*a*) have the care of so much of the property of the ward as the Court may direct;

(*b*) give such security (if any) as the Court thinks fit to the Collector duly to account for all such property, and for what he shall receive in respect of such property;

(*c*) continue liable to account to the Court, after he has ceased to be

manager, for his receipts and disbursements during the period of his management;

(*d*) pass his accounts at such periods and in such form as the Court may direct;

(*e*) pay the balance due from him thereon;

(*f*) apply for the sanction of the Court to any act which may involve the property in expense not previously sanctioned by such Court;

(*g*) sign all papers, deeds, documents and writings which may be executed by him by virtue of his office;

(*h*) be entitled to such allowance, to be paid out of the property, as the Court may think fit for his care and pains in the execution of his duties;

(*i*) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

General duty of guardian.

42. A guardian appointed to the care of a ward shall be charged with the custody of the ward, and must look to his maintenance, health, and, if he be a minor, to his education.

Specific duties of guardian.

43. Every guardian appointed by the Court shall—

(*a*) give such security (if any) as the Court thinks fit to the Collector for the due performance of his duty;

(*b*) pass his accounts at such periods and in such form as the Court may direct;

(*c*) pay the balance due from him thereon;

(*d*) continue liable to account to the Court, after he has ceased to be guardian, for his receipts and disbursements during the period of his guardianship;

(*e*) apply for the sanction of the Court to any act which may involve expense not previously sanctioned by the Court;

(*f*) be entitled to such allowance to be paid out of the property of the ward as the Court may think fit for his care and pains in the execution of his duties.

No person to be guardian who can succeed to ward.

44. No person who would be the next legal heir of a ward, or would otherwise be immediately interested in outliving a ward, shall be appointed to be his guardian;

but nothing in this section shall apply to the mother of a ward, or to a testamentary guardian.

Guardian of female ward.

45. If the ward is a female, a female of the same religion shall, except in the case of a testamentary guardian, be appointed guardian, preference being given to female relatives if any such be eligible.

But no guardian shall ordinarily be appointed or continued for a female ward if she has an adult husband.

Sums due recoverable as demands.

46. Every sum due to the Court from a manager or guardian, or from the sureties of a manager or guardian, or from any officer or servant employed under the Court or from the sureties of any such officer or servant, shall be recoverable as a demand under Bengal Act VII of 1868,[a] or any similar law[b] for the time being in force.

Court may order guardian or manager to make over property

47. The Court may order any past or present manager or guardian, or past or present officer subordinate to a manager or guardian, to deliver up his accounts or any property which may be in his possession within such time as may be fixed by the Court.

Application of moneys received by manager.

48.[c] All moneys received by the manager shall be applied to the purposes hereinafter mentioned in accordance with such instructions as the Court may from time to time give in that behalf. Unless the Board of Revenue shall specially otherwise direct, priority shall be given to the purposes included under Class I over those included in Class II, and priority shall be given to the purposes included in Class II over those included in Class III.

Class I.

The payment of all charges necessary for the maintenance, education and religious observances of the ward and his family,

for the management and supervision of the property of the ward,

and the discharge of the instalments of Government revenue and of all cesses and other public demands from time to time due in respect of such property or any part of such property.

Class II.

The payment of all rents, cesses and other demands due to any superior landlords in respect of any land held on behalf of the ward,

the liquidation of debts payable by the ward,

the payment of all expenses which may be necessary to protect the interests of the ward in the Civil Courts or otherwise,

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[a] See *supra*, p. 116. [b] See now Ben. Act VII of 1880, *infra*, p. 515.

[c] This section has been substituted for the original s. 48 by Ben. Act III of 1881, s. 5 (see *infra*, p. 605), which applies to Bengal and the District of Sylhet. The original section (which applies now in the Districts of Cachar and Goálpára) is as follows:—

Application of moneys received by manager.

"48. All moneys received by the manager shall, in the first instance, be applied as the Court may direct according to circumstances—

in payment of the allowance fixed for the support and education of the ward and his family, and of all charges of management and supervision;

in or towards the discharge of the instalments of Government revenue and of all cesses and other public demands from time to time due in respect of such property."

the maintenance in an efficient condition of the estates, buildings and other immoveable property belonging to the ward, and

the payment of such religious, charitable and other allowances as were paid out of the proceeds of the property before it came under the charge of the Court, and such allowances and donations befitting the position of the ward's family as the Court may authorize to be paid.

CLASS III.

The improvement of the land and property of the ward, and the benefit of the ward and his property generally :

Amount to be expended on improvement.

Provided that the amount expended for such improvement and benefit in any one year shall not exceed ten per centum of the surplus which the accounts of the previous year may show to have been available after paying or making provision for the payment of all expenses incurred up to the end of such previous year, unless, in the opinion of the Court and of the Lieutenant-Governor, it is desirable for the protection or in the interests of the ward or his property to expend an amount exceeding such percentage.

Surplus to be made over to female and major whose property remains under the charge of the Court.

49.[a] If the ward is a female of sound mind, who has completed her age of twenty-one years, or a male who has completed his age of twenty-one years, whose property remains under the charge of the Court with his consent under section 11, no part of the surplus mentioned in the proviso to the section immediately preceding shall be expended by the Court otherwise than in the liquidation of debts or in the improvement of the lands or property as aforesaid.

Any portion of such surplus remaining after provision has been made for such purposes shall be paid to such ward :

Provided that, before paying any portion of such surplus to such ward,

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[a] This section has been substituted for the original s. 49 by Ben. Act III of 1881, s. 5 (see *infra*, p. 605), which applies to Bengal and the District of Sylhet. The original section (which applies now in the Districts of Cachar and Goálpára) is as follows :—

Application of surplus.

"49. Whenever upon the accounts a *bonâ fide* surplus is shown after making the payments mentioned in section 48, such surplus shall be applied as the Court may direct according to the circumstances of the property concerned—

in liquidation of debts payable by the ward ;

in payment of such religious, charitable and other allowances as were paid out of the proceeds of the property before it came under the charge of the Court, and such allowances and donations befitting the position of the ward's family as the Court may authorise to be paid ;

in the improvement of the lands or otherwise for the benefit of the ward or his property :

"Provided that the amount expended on such improvement and for such benefit shall not exceed ten per centum of the said surplus, unless, in the opinion of the Court and the Lieutenant-Governor, it is desirable, for the protection of the lands, or in the interest of the ward or his property, to expend an amount exceeding such percentage ;

"Provided also that if the ward is a female of sound mind, who has completed her age of twenty-one years, or a person who has completed his age of twenty-one years and whose property remains under the charge of the Court with his consent, no part of the surplus shall be expended by the Court otherwise than in the liquidation of debts or in the improvement of the lands or property as aforesaid, and the remainder of the surplus shall be paid to such female or person."

the Court may deduct therefrom and retain at its disposal any sums which it may consider necessary to retain—

(1) as a working balance for the management of the property and expenses incidental thereto;

(2) in order to make provision for any special charges which are expected to become payable on account of the property, and which probably cannot be met from the expected surplus of the following years.

Power to invest surplus.

50. If the ward is not a female or person[a] as aforesaid, and if any surplus remains after providing so far as the Court may think fit for the objects mentioned in section 49[a], the same shall be applied in the purchase of other landed property, or invested at interest on the security of—

promissory notes, debentures, stock and other securities of the Government of India, or of the United Kingdom of Great Britain and Ireland;

bonds, debentures and annuities charged by the Imperial Parliament on the revenues of India;

stock or debentures of or shares in railway or other companies the interest whereon has been guaranteed by the Secretary of State for India in Council;

debentures or other securities for money paid by or on behalf of any municipal body under the authority of any Act of a legislature established in British India;

or such other securities, stocks or shares, guaranteed by the Government of India or the Government of Bengal, as to the Court shall seem fit.

PART VII.

SUITS.

Manager or Collector to be next friend or guardian in suits by or against ward.

51. In every suit brought by or against any ward he shall be therein described as a ward of Court; and the manager of such ward's property, or, if there is no manager, the Collector of the district in which the greater part of such property is situated, or any other Collector whom the Court of Wards may appoint in that behalf, shall be named as next friend or guardian for the suit, and shall in such suit represent such ward, and no other person shall be ordered to sue or be sued as next friend or be named as guardian for the suit by any Civil Court in which such suit may be pending.

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[a] In Bengal and in the District of Sylhet, for "person" read "male", and for "section 49" read "section 48"—see Ben. Act III of 1881, s. 6, *infra*, p. 605.

Court may substitute another person to be next friend or guardian for suit.

52. The Court of Wards may by an order nominate or substitute any other person to be next friend or guardian for any such suit; and, upon receiving a copy of any such order of substitution, the Civil Court in which such suit is pending shall substitute the name of the next friend or guardian for the suit so appointed for the name of the manager or Collector.

Payment of costs.

53. If in any such suit any Civil Court shall decree any costs against the next friend or guardian for the suit of the ward, the Court of Wards shall cause such costs to be paid out of any property of the ward which for the time being may be in its hands.

Process against wards to be served through Court.

54. Every process which may be issued out of any Civil Court against any ward shall be served, through the Collector, upon the next friend or guardian for the suit as aforesaid of such ward.

Suits not to be brought on behalf of wards unless authorized by the Court.

55. No suit shall be brought on behalf of any ward [a]by a manager[a] unless the same be authorized by some order of the Court:

Provided that a manager may authorize a plaint to be filed in order to prevent a suit from being barred by the law of limitation, but such suit shall not be afterwards proceeded with except under the sanction of the Court:

Provided also that suits for arrears of rent may be brought on behalf of any ward if authorized by an order of the manager of the landed property on which such rents are due.

Saving of suits in High Court, and of persons who consent to remain wards.

56. Nothing contained in this Part shall apply to any suit instituted or pending in the High Court, or to a proprietor who has consented to leave his property under the charge of the Court of Wards, as provided in the second clause of section 11.

PART VIII.

PENALTIES.

For disobeying certain orders of Collector.

57. Any person who refuses to comply with an order of a Collector under sections 29, 30, 36 or 37 shall be liable, by order of the Collector, to a fine not exceeding five hundred rupees.

For disobeying orders under section 47.

58. Any person who refuses to comply with an order made under section 47 may be punished, by order of the Court, with simple imprisonment and attachment of his property until the order is complied with:

[b]Provided that the Collector may release any person who has been so

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[a-a] These words in s. 55 have been inserted by Ben. Act III of 1881, s. 7, which applies to Bengal and the District of Sylhet—see Ben. Act III of 1881, s. 7, *infra*, p. 605.

[b] This proviso to s. 58 has been added by Ben. Act III of 1881, s. 8, which applies to Bengal and the District of Sylhet—see Ben. Act III of 1881, s. 8, *infra*, p. 605.

imprisoned on his furnishing sufficient security for his attendance and for the delivery of the accounts or property required within such time as the Collector shall think fit. The Collector may at any time rescind such order of release, and direct that effect shall be given to the previous order of imprisonment.

Penalty for neglecting to furnish accounts, &c.

58A.[a] Any farmer holding or having held lands under the Court who, upon notice served upon him to that effect at any time during the currency of the lease or within six months after the expiry of the lease under which such lands were held or after he has relinquished such lands, omits or refuses to furnish accounts or produce documents or papers required under such notice, and shall not show sufficient cause for such omission or refusal, shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees, for such omission, and the Collector may impose such further daily fine as he may think proper, not exceeding twenty rupees for each day during which such farmer shall omit to furnish the accounts, documents or papers required after a date to be fixed by the Collector in a notice warning the farmer that such further daily fine will be imposed.

Such notice shall be served by tendering to the person to whom it may be directed a copy thereof, attested by the Collector, or by delivering such copy at the usual place of abode of such person or to some adult male member of his family; or, in case it cannot be so served, by posting some copy upon such conspicuous part of the usual or last-known place of abode of such person, and, in case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such a way as the Collector issuing the notice may direct, and the date fixed by such notice shall not be less than fifteen days after service thereof.

The Collector may proceed from time to time to levy any amount which has become due in respect of any fine imposed under this section, notwithstanding that an appeal against the order imposing such fine may be pending:

Provided that, whenever the amount levied under such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the division, and no further levy in respect of such fine shall be made otherwise than by the authority of the said Commissioner.

For disobeying order of Court.

59. Any person who disobeys any lawful order of the Court shall be liable, on conviction before a Magistrate, to a fine not exceeding five hundred rupees, and, if he is a manager or guardian appointed by the Court, to a fine not exceeding one thousand rupees.

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[a] S. 58A has been inserted by Ben. Act III of 1881, s. 9, which applies to Bengal and the District of Sylhet—see Ben. Act III of 1881, s. 9, *infra*, p. 605.

PART IX.

MISCELLANEOUS.

Disabilities of wards.

60. No ward shall be competent to create, without the sanction of the Court, any charge upon, or interest in, his property or any part thereof.

Adoption by ward invalid without consent of Lieutenant-Governor.

61. No adoption by any ward, and no written or verbal permission to adopt given by any ward, shall be valid without the consent of the Lieutenant-Governor, obtained either previously or subsequently to such adoption, or to the giving of such permission, on application made to him through the Court.

Exception as to persons who consent to remain wards.

62. Nothing contained in section 60 or in section 61 shall apply to a proprietor who has consented to leave his property under the charge of the Court, as provided in the second clause of section 11.

Recovery of interest on arrears of rent.

63.[a] Any amount of interest which has accrued due on arrears of rent or other demand recoverable as rent payable to the manager of an estate which is in charge of the Court may be recovered in any manner and by any process according to which such arrears may be recovered under any law for the time being in force, and any Court or officer who is competent to make an order or certificate in execution of which such arrears or other demand are recoverable may direct that any costs incurred by the manager in obtaining such order or certificate, and in executing the same, shall be recovered in the same manner and by the same process as if the amount thereof had been included in the said order or certificate.

Collector or Court to record reasons of penalties.

64. When any penalty is imposed by any order under section 57 or section 58, the Collector or Court passing such order shall make a formal record of the same with the reasons or grounds thereof.

Procedure when Court's jurisdiction ceases.

65. Whenever the Court has determined to release the property of a ward from its charge, it shall make an order that the jurisdiction of the Court over such property shall cease on a date not more than sixty and not less than

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[a] The original s. 63 was repealed in Bengal and in the Districts of Sylhet and Goálpára (excluding the Eastern Dwárs) by Ben. Act VII of 1880, s. 3. This new section has been substituted for it by Ben Act III of 1881, s. 10 (see *infra*, p. 605), which applies to Bengal and the District of Sylhet. The original s 63 (which applies now in the District of Cachar and in the Eastern Dwárs in Goálpára) is as follows:—

Arrears of rent how recoverable.

"63. All arrears of rent due by farmers, under-tenants and raiyats, in respect of property under the charge of the Court (whether such rents have become due before or after the Court has taken charge), shall be recoverable as arrears of revenue, and shall constitute a demand under Bengal Act VII of 1868, or any similar Act for the time being in force.[b]

"The last preceding clause shall not apply to arrears of rent enhanced after issue of notice under section 15 of Act X of 1859,[c] or under section 14 of Bengal Act VIII of 1869,[d] but of which the enhancement has not been agreed to by the person who is liable to pay the same, or has not been confirmed by a competent Court."

[b] See now Ben. Act VII of 1880, *infra*, p. 515. That Act has not been extended to Cachar or the Eastern Dwars in Goálpara.

[c] See Vol. I, p. 345.

[d] As to repeal of Ben. Act VIII of 1869 in Bengal, see Act VIII of 1885.

fifteen days from the date of such order; and copies of such order shall be published as the Court may direct.

Recovery of expense incurred on account of property in charge of Court.

65A.[a] Any expense incurred by the Court on account of any property under its charge may, after the release of such property, be recovered as a demand under Bengal Act VII of 1880,[b] or any other Act at the time being in force for the recovery of public demands from any person into whose possession such property or any part thereof may have passed immediately after the release by the Court of such property:

Provided that the sum so recovered from any such person shall not be greater than the value of any such property which so passed into the possession of such person.

Powers of Collector in making enquiries.

66. A Collector making any enquiry under this Act may exercise any power conferred by the Code of Civil Procedure[c] on a Civil Court for the trial of suits.

V of 1882.

Appeals.

67. An appeal shall lie from every order of a Collector under this Act to the Commissioner of the division, and from every order of a Commissioner under this Act to the Court.

Control of Court.

68. All orders or proceedings of the Commissioner and of the Collector under this Act shall be subject to the supervision and control of the Court, and the Court may, if it thinks fit, revise, modify or reverse any such order or proceeding whether an appeal is presented against such order or proceeding or otherwise.

Control of Lieutenant-Governor.

69. In the exercise of the powers and in the discharge of the duties conferred and imposed respectively on the Court by this Act the Court shall be guided by such orders and instructions as it may from time to time receive from the Lieutenant-Governor.

Power to Court to make rules.

70. The Court may make rules consistent with this Act—

(*a*) defining the powers of Commissioners and Collectors respectively when the property of a ward is situated in two or more districts or in two or more divisions;

(*b*) prescribing what reports shall be made from time to time by Collectors and Commissioners on the condition of the ward and his property;

(*c*) prescribing the periods at which and the mode in which accounts shall be submitted by managers and guardians respectively, and the mode in which such accounts shall be audited;

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[a] S. 65A has been inserted by Ben. Act III of 1881, s. 11 (see that section, *infra*), which applies to Bengal and the District of Sylhet.

[b] See *infra*, p. 515.

[c] See Act XIV of 1882, s. 3, in General Acts, 1882—84, p. 32.

(*d*) regulating the custody of securities and title-deeds belonging to the estate or property of a ward;

(*e*) regulating the procedure in appeals from orders of Collectors and Commissioners respectively under this Act;

(*f*) prescribing the procedure to be observed when a property ceases to be under the charge of the Court;

(*g*) and, generally, for the better fulfilment of the purposes of this Act.

The Court may from time to time alter, add to or repeal such rules.

ACT No. I OF 1880.[a]

Received the Lieutenant-Governor's assent on the 16th January, 1880, and the Governor General's assent on the 26th February, 1880.

An Act to authorize the making and to regulate the working of Street Tramways in Calcutta.

Preamble.

WHEREAS the Corporation of the Town of Calcutta, hereinafter called the Corporation, by an agreement dated the 2nd day of October, 1879, for the considerations therein expressed, granted to Dillwyn Parrish, Alfred Parrish and Robinson Souttar and their assigns, hereinafter called the grantees, the right to construct, maintain and use a tramway or tramways in Calcutta upon the terms and in the manner mentioned in the said agreement, a copy whereof is set forth in the schedule to this Act, which said agreement had, on the twenty-fifth day of August, 1879, received the sanction of the Lieutenant-Governor of Bengal; and whereas the grantees are desirous of being empowered to construct the several street tramways in the said agreement and in this Act particularly described, and also such other tramways between such other places in Calcutta and the Suburbs of Calcutta, and by such other routes as may hereafter be approved; and whereas the objects of this Act cannot be attained without the authority of the Legislature: It is hereby enacted as follows:—

Short title.

1. This Act may be called the Calcutta Tramways Act, 1880:

Commencement.

and it shall come into force from the date[b] on which it may be published in the Calcutta Gazette with the assent of the Governor General.

Meaning of "tramway."

2. In this Act, unless there be something repugnant in the subject or context, "tramway" means a tramway constructed under this Act.

Tramways may be made in accordance

3. Subject to the provisions of this Act, and of the said agreement, the grantees may make and maintain in Calcutta a tramway or tramways, with

[a] Ben. Act II of 1884 is to be read with and taken as part of this Act—see Ben. Act II of 1884, s. 1, *infra*.

[b] *i.e.*, the 3rd March, 1880.

single or double lines, and with all necessary sidings, turnouts, connections and lines (but in the case of sidings and turnouts only in such places as the Corporation may sanction) on the following routes and between such other places and by such other routes as may be hereafter approved by the Corporation and sanctioned by the Lieutenant-Governor :— with the agreement between the Corporation and the grantees.

1st.—A circular tramway passing round Fairlie Place, Strand Road, Koila Ghât Street and Clive Street.

2nd.—Tramway No. 1, commencing at the junction of Cornwallis Street and Circular Road, and passing along Cornwallis Street, College Street, Colootollah Street, Canning Street, Clive Row and Clive Street, effecting a double junction with the circular tramway at Fairlie Place.

3rd.—Tramway No. 2, passing along Upper Chitpore Road to its junction with Canning Street, where it joins tramway No. 1.

4th.—Tramway No. 3, passing along Bow Bázár Street, Lall Bázár Street and Dalhousie Square, effecting a double junction with the circular tramway in Clive Street.

5th.—Tramway No. 4, commencing near Sobha Bázár Street and passing along Strand Road to Somerset Buildings, where it terminates.

6th.—Tramway No. 5, commencing in the Circular Road at the end of Dhurrumtollah Street, and passing along Dhurrumtollah Street, Esplanade Row, Old Court House Street and Dalhousie Square, effecting a double junction with the circular tramway at Koila Ghât Street.

7th.—Tramway No. 6, commencing in the Circular Road at the end of Elliott's Road, and passing along Elliott's Road and Wellesley Street, and joining tramway No. 5 in Dhurrumtollah and tramway No. 1 in College Street.

8th.—Tramway No. 7, passing along Chowringhee and joining tramway No. 5 at Dhurrumtollah Road, with a connecting line along Bentinck Street and Chitpore Road to tramway No. 2 :

Provided that, without the special sanction of the Corporation to be obtained in special general meeting of the Commissioners, there shall not be a double line in the following places :—

In tramway No. 1, Colootollah Street.
Ditto „ 2, the whole.
Ditto „ 6, Elliott's Road.
Ditto „ 7, the connecting line.

4. In the event of any other tramway or tramways on other routes in Calcutta or in the Suburbs of Calcutta being from time to time approved by the Corporation or the Municipal Commissioners for the said Suburbs, as the case may be, and sanctioned by Government and undertaken by the grantees, Application of Act to Suburban tramways.

notice thereof specifying the routes so approved of, and, in the case of Suburban tramways, a copy of the agreement entered into between the said Municipal Commissioners and the grantees in respect thereof, shall thereupon be published in the Calcutta Gazette, and upon such publication all the provisions of this Act, so far as the same may be applicable, shall apply to the tramway or tramways in such publication specified, and all works and things connected with the same or incidental thereto, as if the said routes had been particularly specified in this Act, and as if the agreement, if any, in reference thereto had been included in the schedule to this Act.

Form in which tramways are to be constructed and maintained.

5. Every tramway shall be constructed on the metre-gauge of 3 feet 3⅜ inches, or on such other gauge not exceeding 4 feet 8½ inches as may be agreed upon between the Corporation and the grantees, and shall be laid and maintained in such manner that the uppermost surface of the rails shall be on a level with the immediately adjacent surface of the road; and, before the work of construction is begun, the drawings and specification showing the proposed construction of each tramway shall be submitted to the Corporation and be approved by them, and the cars and carriages intended to run on the tramways shall also be of such construction and furnished with such brakes and other appliances as shall have been approved by the Corporation.

No tramway to be opened without certificate from engineer.

6. No tramway shall be opened for public traffic until the same has been inspected and certified by the engineer to the Corporation to be fit for such traffic.

Carriages how to be worked.

7. The cars and carriages of the grantees on the lines of the tramways shall be worked with such power, animal or mechanical, as the grantees may think suitable:

Provided that no steam-carriages shall be used without the special consent of the Corporation, to be obtained in special general meeting of the Commissioners, and without the sanction of the Lieutenant-Governor.

Grantees may use tramway carriages with flange wheels.

8. The grantees may use on their tramways carriages with flange wheels or wheels suitable only to run on a grooved rail, and, subject to the provisions of this Act, and of the hereinbefore recited agreement, they shall have the exclusive use of their tramways for carriages with flange wheels or other wheels suitable only to run on a grooved rail.

Grantees may fix and demand fares.

9. The grantees shall have power from time to time to fix the rates of fares for carrying passengers and goods in the said cars or carriages, and may demand and take the same for every passenger travelling upon any of their tramways, or for the carriage of goods by their tramways:

Provided that the rate of fare for each person or parcel shall, for any

distance not exceeding three miles, not exceed three annas, and for any greater distance shall not exceed the same proportion.

Printed list of fares, &c., to be placed in carriages.

10. A printed list in English, Bengali and Urdu of all the fares and charges authorized by this Act to be taken, and a printed copy in the same languages of all bye-laws in force as hereinafter mentioned, shall be exhibited in a conspicuous place inside each of the cars or carriages used by the grantees upon any of their tramways.

Such list and printed copy as aforesaid shall be published in the Calcutta Gazette at the expense of the grantees.

Fares how to be paid.

11. The fares and charges by this Act authorized shall be paid to such persons, at such places, upon or near to the tramways, and in such manner and under such regulations as the grantees may, by notice to be annexed to the list of fares, from time to time appoint.

Power to break up streets.

12. The grantees may from time to time, for the purpose of constructing and maintaining any tramways under this Act, open and break up the soil and pavement of any of the streets as defined by Bengal Act II of 1888[a] (the Calcutta Municipal Consolidation Act, 1888) and bridges in the Town of Calcutta, and therein lay sleepers and rails, and repair, alter or remove the same; and may, for the purposes aforesaid, do in and on such streets and bridges all other acts which they shall from time to time deem necessary for constructing and maintaining their tramways, subject to the following regulations:—

1st.—They shall give to the Corporation notice in writing of their intention to open or break up any such street or bridge, specifying the time at which they will begin to do so, and the portion of the road proposed to be open or broken up. Such notice to be given at least three days before the commencement of the work.

2nd.—They shall not open or break up or alter the level of any such street or bridge, except under the superintendence and to the reasonable satisfaction of the Corporation, for which superintendence the grantees shall pay all reasonable expenses, unless the Corporation neglect to give such superintendence at the time specified in the notice, or discontinue the same during the work.

3rd.—They shall not, without the consent of the Corporation, open or break up at any one time a greater length than a quarter of a mile on any one line of tramway.

4th.—They shall, with all convenient speed, and in all cases within six weeks at the most, unless the Corporation otherwise consent in writing, complete the work for which the said street or bridge shall be broken up, and fill in the ground, and make good the surface, and, to the satisfaction of the

[a] See Ben. Act II of 1888, s. 2, *infra*.

Corporation, restore the street or bridge to as good a condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

5th.—They shall in the meantime, when such street or bridge is opened or broken up, cause it to be fenced and watched, and to be properly lighted at night.

6th.—They shall make good all damage done to the gas and water-pipes and sewers, whether belonging to the Corporation or to private individuals, by the disturbance thereof.

7th.—If by any such operations as aforesaid the grantees interrupt the supply of water or gas in or through any main or main pipe, they shall be liable to a penalty not exceeding two hundred rupees for every day upon which such supply shall be so interrupted.

Grantees to keep the tramway roads in proper repair.

13. The grantees shall, at their own expense, at all times maintain and keep in good condition and repair, in such manner as the Corporation shall direct, the rails of which any of their tramways shall for the time being consist, and so much of any street or bridge as lies between the rails of any tramway; and, in the case of double lines or turnouts or sidings, the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway; and, in the course of carrying out such repairs, it shall not be necessary to give notice thereof to the Corporation.

Grantees not to obstruct ordinary traffic.

14. In exercising the powers given to them by the last two preceding sections the grantees shall arrange their work so as to afford the least possible obstruction to the ordinary traffic of the streets, and so as to admit of as free and unrestricted entry at all times into the sewers through the man-holes and lamp-holes for the time being in use, as is possible under the circumstances, and also so as to enable proper repairs to be made to water or gas pipes by the direction of the Corporation.

Reservation of right of public to use roads

15. Nothing in this Act, or in any bye-law made under this Act, shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange wheels or wheels suitable to run on a grooved rail.

Saving of Port Commissioners' tramways

16. Nothing in this Act, or in any bye-law made under this Act, shall interfere with the right of the Port Commissioners, or of any other body or person entitled at the time of the commencement of this Act to work and maintain a tramway, to pass across any tramway constructed under this Act with carriages having flange wheels or wheels suitable to run on a grooved rail.

17. Notwithstanding anything in this Act contained the grantees shall not acquire, or be deemed to acquire, any right other than that of user of any road along or across which they lay any tramway. Right of user only.

18. If the grantees fail in any respect to comply with the provisions of sections 5, 6, 7, 12 (except the last two clauses), 13 and 14 of this Act, they shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act, or to any other remedy against them), upon complaint of the Corporation or of any person injuriously affected thereby, be liable to a penalty not exceeding two hundred rupees, and to a further penalty not exceeding fifty rupees for each day during which any such failure continues after the first day on which such penalty is incurred. Penalty for failure of grantees to comply with provisions of this Act.

19. If any person wilfully obstructs any person acting under the authority of the grantees in the lawful exercise of their powers in setting out or making, laying down, repairing or renewing a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall for every offence be liable to a penalty not exceeding fifty rupees, and shall also be liable to pay such damages as may be awarded in respect of such injury by any competent Court. Penalty for obstructing grantees in the exercise of their power.

20. If any person without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things, namely:— Penalty for interfering with tramway.

interferes with, removes or alters any part of a tramway of the grantees, or of the works connected therewith;

does or causes to be done anything in such a manner as to obstruct any carriage using the tramways;

or knowingly aids or assists in the doing of such thing, he shall for every such offence be liable (in addition to any proceedings by way of criminal charge or otherwise to which he may be subject) to a penalty not exceeding one hundred rupees.

21. If any person travelling or having travelled in any carriage of the grantees avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit such carriage, every such person shall for every such offence be liable to a penalty not exceeding ten rupees. Penalty for avoiding payment of proper fare.

22. It shall be lawful for any servant of the grantees, and all persons called in by him for his assistance, to arrest and take to the nearest police-station any person who shall be discovered either in or after committing or Servant of grantees may arrest persons avoiding

payment of fare.

attempting to commit any such offence as in the last preceding section mentioned, and whose name and residence is refused by him and is unknown to such servant or person, and the police-officer in charge of the said police-station, on receiving a complaint that an offence under this Act has been committed, shall adopt such legal measures as may be necessary to cause the said person to be taken before a Magistrate with the least possible delay.

Carriage of dangerous or offensive goods.

23. No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous or offensive nature, and, if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant of the grantees with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding fifty rupees for every such offence, and it shall be lawful for the grantees to refuse to take any parcel that they may suspect to contain goods of a dangerous or offensive nature, or to require the same to be opened to ascertain the fact.

Bye-laws by Corporation.

24. The Corporation in special general meeting may, subject to confirmation thereof by the Lieutenant-Governor, from time to time make such regulations as to the rate of speed, number of passengers and mode of use of the tramways as the convenience and safety of the public may require, and as are not inconsistent with this Act.

The grantees may make certain regulations.

The grantees may, subject to confirmation as aforesaid, from time to time make such regulations—

for preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to them ; and

for regulating the travelling in or upon any carriage belonging to them as are not inconsistent with this Act.

Notice of the making of any such bye-laws shall be published by the Corporation in the Calcutta Gazette.

Penalty for breach of bye-laws.

25. Any person offending against any bye-law made under the provisions of the last preceding section shall forfeit for every offence any sum not exceeding twenty rupees to be imposed in such bye-laws as a penalty for such offence.

Power to Corporation to license drivers, conductors, &c.

26. The Corporation shall have the like power of making and enforcing rules and regulations and of granting licenses with respect to all drivers, conductors and other persons having charge of the carriages using the tramways as they are for the time being entitled to make, enforce and grant with respect to the drivers of hackney carriages and other persons having charge thereof.[a]

[a] See Ben. Act V of 1866, *supra*, p. 79.

Grantees to be responsible for all damages.

27. The grantees shall be answerable for all accidents, damages and injuries happening through their act or default, or through the act or default of any person in their employment by reason or in consequence of any of their works or carriages, and shall save harmless the Corporation and their officers and servants from all damages and costs in respect of such accidents, damages and injuries.

Power for the Corporation and police to regulate traffic on roads.

28. Nothing in this Act shall limit the powers of the Corporation or the police to regulate the passage of any traffic along or across any road along or across which any tramways are laid down, and the Corporation or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the grantees as to the traffic of other persons.

The Corporation shall not be liable to pay to the grantees any compensation for loss of traffic occasioned by the reasonable exercise of such authority.

Reservation of power over roads.

29. Nothing in this Act shall be construed to prevent the Corporation, or the Oriental Gas Company, Limited, in the exercise of the powers conferred upon them under Act V of 1857, from opening, breaking up, widening, altering, diverting or improving any of the roads traversed by the tramways for the purposes for which they may now lawfully open, break up, widen, alter, divert or improve the same:

Provided—

(1) that they shall cause as little detriment or inconvenience to the grantees as circumstances admit;

(2) that they may (if absolutely necessary, but not otherwise) order the temporary stoppage of traffic on the tramways or any of them on giving twenty-four hours' previous notice in writing to the grantees;

(3) that before they commence any work, whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the grantees notice of their intention to commence such work, specifying the time at which they will begin to do so; such notice to be given eighteen hours at least before the commencement of the work;

(4) that, in the event of their so interfering with, or stopping the running of, any tramway under this section, an abatement proportioned to the length of road over which and time during which running is stopped shall be made from the rent hereinbefore reserved and payable by the grantees;

(5) that any alteration of the position of any of the tramways, or the making good of any injury or damage that may be occasioned

thereto by reason of such widening, alteration or improvement, shall be executed by the grantees at the expense of the Corporation.

Corporation to have right of purchasing tramways after twenty-one years.

30. The Corporation shall have the right of purchasing the tramways with the plant, buildings, stores, rolling-stock and everything connected therewith upon the expiration of twenty-one years from the commencement of this Act, upon declaring its intention so to do in writing not less than six months before the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years, after the expiration of the said twenty-one years upon similar notice being given, and the consideration for such purchase shall be a cash payment of one and two-fifths of the amount of the invested capital of the grantees, or securities of the Government of India, or securities the interest whereon shall have been guaranteed by the Secretary of State for India in Council, or debentures of the Corporation of such amount as to produce, at the rate of interest current on such securities, seven per cent. per annum on the amount of the said invested capital; and, if the consideration for such purchase shall be given in such securities as aforesaid, the grantees shall be entitled to have in addition a first mortgage of all the property, assets and profits of the tramway or tramways which shall have been purchased from them.

SCHEDULE.

ARTICLES OF AGREEMENT made this second day of October, 1879, BETWEEN THE CORPORATION OF THE TOWN OF CALCUTTA incorporated under Act IV of 1876[a] of the Lieutenant-Governor of Bengal in Council, hereinafter called the said Corporation of the one part, and DILLWYN PARRISH and ALFRED PARRISH, both of London, and ROBINSON SOUTTAR, of Liverpool, hereinafter called the said grantees of the other part. WHEREAS the said Corporation have, subject to confirmation thereof by the Government of Bengal, and to the recognition of this agreement by an Act of the Bengal Legislature, agreed to grant to the said grantees the right to construct, maintain and use a tramway or tramways in Calcutta, upon the terms and conditions hereinafter contained, NOW THESE PRESENTS WITNESS that, in consideration of the covenants and agreements hereinafter contained and on the part of the said Corporation to be performed, the said grantees for themselves, their heirs, executors, administrators and assigns do, and each of them for himself, his heirs, executors, administrators and assigns doth, covenant with the said Corporation, so far as the covenants and agreements hereinafter contained are to be performed by the said grantees and

[a] Ben. Act IV of 1876 has been repealed by Ben. Act II of 1888, but see para. 4 of s. 2 of the latter Act, *infra*.

their heirs, executors, administrators and assigns, and the said Corporation, for and in consideration of the covenants and agreements hereinafter contained and on the part of the said grantees and their heirs, executors, administrators and assigns to be performed, do hereby covenant with the said grantees and their heirs, executors, administrators and assigns so far as the covenants and agreement hereinafter contained are to be performed by the said Corportion in manner following, that is to say :—

1. The said Corporation grant to the said grantees and their heirs, executors, administrators and assigns, all which persons are hereinafter included in the words "the said grantees," the right to construct, maintain and use a tramway or tramways, with single or double lines, and with all necessary sidings, turnouts, connections and lines of whatever nature which may be required to connect the said tramway or tramways with the depôts of the said grantees (but in the case of sidings and turnouts only in such places as the said Corporation may sanction), on the following routes and between such other places and by such other routes as may be hereafter approved of by the said Corporation :—

1st.—A circular tramway passing round Fairlie Place, Strand Road, Koila Ghât Street and Clive Street.

2nd.—Tramway No. 1, commencing at the junction of Cornwallis Street and Circular Road and passing along Cornwallis Street, College Street, Colootollah Street, Canning Street, Clive Row and Clive Street, effecting a double junction with the circular tramway at Fairlie Place.

3rd.—Tramway No. 2, passing along Upper Chitpore Road to its junction with Canning Street, where it joins tramway No. 1.

4th.—Tramway No. 3, passing along Bow Bázár Street, Lall Bázár Street and Dalhousie Square, effecting a double junction with the circular tramway in Clive Street.

5th.—Tramway No. 4, commencing near Sobha Bázár Street, and passing along Strand Road to Somerset Buildings, where it terminates.

6th.—Tramway No. 5, commencing in the Circular Road at the end of Dhurrumtollah Street and passing along Dhurrumtollah Street, Esplanade Row, Old Court House Street and Dalhousie Square, effecting a double junction with the circular tramway at Koila Ghât Street.

7th.—Tramway No. 6, commencing in the Circular Road at the end of Elliott's Road and along Elliott's Road and Wellesley Street and joining tramway No. 5 in Dhurrumtollah and tramway No. 1 in College Street.

8th.—Tramway No. 7, passing along Chowringhee and joining tramway

No. 5 at Dhurrumtollah Road, with a connecting line along Bentinck Street and Chitpore Road to tramway No. 2:

Provided that without the special sanction of the Corporation (Commissioners in special general meeting) there shall not be a double line in the following places:—

In tramway No. 1, Colootollah Street.
Ditto „ 2, the whole.
Ditto „ 6, Elliott's Road.
Ditto „ 7, the connecting line.

These lines are particularly delineated on a plan accompanying this agreement, and signed by the engineer to the Corporation and one of the said grantees.

2. The said grantees shall, moreover (subject to clauses 3 and 4), have the exclusive right of laying, constructing, maintaining and using a tramway or tramways within the limits of the Calcutta municipality on the terms contained in these presents:

Provided always that if the said grantees shall at any time or times refuse or neglect for three months to accept any proposal by the said Corporation for the construction, maintenance and use of any tramway or tramways other than those mentioned in clause 1 which the said Corporation may consider necessary or desirable, it shall be lawful for the said Corporation to employ any other person or company for the purposes aforesaid or any of them, and to make such arrangements as they may think proper independently of the said grantees.

3. The said grantees shall construct in such a manner as to be available for use at least six miles of the tramways mentioned in clause 1 within three years from the passing of the necessary Act by the Legislature, and they shall, before the expiration of the fourth year, give notice in writing to the said Corporation of the lines they intend to construct during the fifth year, and, failing the observance by the said grantees of the terms of this clause, it shall be lawful for the said Corporation to withdraw and cancel the concessions and rights granted by these presents to the said grantees as regards the lines remaining unconstructed.

4. If the grantees shall, at the expiration of five years from the date of commencement of this contract, have left any one or more of the lines hereinbefore in clause 1 specified unconstructed, and if the said Corporation shall not have exercised the rights conferred on them by clause 3, the said Corporation may call upon the said grantees to construct the line or lines; and if the said

grantees do not construct the line or lines within twelve calendar months after receiving such formal notice, then their powers granted in this concession shall, so far as relates to that line, cease, and the said Corporation may make arrangements with other persons for the construction of the same, and in such last-mentioned case the other parties, to whom the said concession or any contract shall be granted, shall have the privilege of running round the circle to be constructed by the said grantees, namely, by way of Koila Ghât Street, Strand Road, Fairlie Place and Clive Street, free of toll, and, in the event of the said grantees having failed to construct the six miles of tramway provided for in the preceding clause, such other parties as last aforesaid shall have a like privilege of running over any part of any of the tramways No. 1 to No. 7 above-mentioned in part constructed by the grantees to any other part of the same tramway which may have been constructed by the said other parties:

Provided always that in the exercise of these privileges they shall not interfere with or obstruct the traffic of the said grantees, and shall conform to such rules for the regulation of that traffic as may be drawn out by the said grantees and approved of by the said Corporation:

Provided also that it shall not be lawful for the said other parties to both take up and set down the same passenger on the said grantees' lines:

Provided also that, if the said grantees shall offer any obstruction or fail to afford reasonable facilities, to enable the said parties to whom any concession or contract shall be made or given as aforesaid to exercise the privilege of using the lines of the said grantees as aforesaid, it shall be lawful for the said Corporation forthwith to make such rules with reasonable penalties for the breach thereof as they may think advisable for the purpose of regulating the use of the said lines and the traffic thereon.

5. Any tramway or tramways to be constructed under this agreement shall be constructed on the metre-gauge of 3 feet 3⅜ inches, or on such other gauge not exceeding 4 feet 8½ inches as may be mutually agreed upon, and especially the rails shall be laid and maintained in such manner that the uppermost surface of the rails shall be on a level with the surface of the road, and before the work of construction is begun the drawings and specification showing the proposed construction of each tramway shall be submitted to the said Corporation and be approved by them, and the cars and carriages intended to run on the said tramways shall also be such as shall have been approved of by the Corporation.

6. If the said Corporation shall hereafter alter the level of any street or road along or across which any tramway by this agreement authorized is laid or authorized to be laid, the grantees shall alter or (as the case may be) lay

their rails, so that the uppermost surface thereof shall be on a level with the surface of the road so altered:

Provided always that any such alteration as aforesaid shall be so made as to interfere as little as possible with the safe and convenient working of the said tramways, and in any case so as not to stop or prevent the free use and working thereof.

7. The cars and carriages of the said grantees on the tracks of the said tramways shall be worked with such power, animal or mechanical, as the said grantees may think suitable: provided that no steam-carriages may be used without the special consent of the Corporation (Commissioners in special general meeting); and provided also that the said Corporation (Commissioners in special general meeting) shall have power at all times to make such regulations as to the rate of speed, number of passengers and mode of use of the said tracks as the convenience and safety of the public using the streets may require.

8. The sleepers, rails, materials, implements and erections placed and erected by the said grantees or their assigns on the streets or roads under the powers hereby granted shall be and remain the property of the said grantees, but they shall not remove or displace the same or any of them or any part or parts thereof without the consent in writing of the said Corporation. No person other than the grantees, or persons authorized so to do under clause 4 thereof, may use upon any tramway or tramways made under this agreement, or under any agreement entered into under clause 4 hereof, carriages with flanged wheels or other wheels suitable only to run on the prescribed rail.

9. The said grantees or their assigns shall have power from time to time to fix the rates of fares for carrying persons and goods in the said cars or carriages:

Provided that the rate of fare for each person or parcel shall for any distance not over three miles not exceed three annas and shall not for any greater distance exceed the same proportion.

10. The said grantees may (for the purpose of constructing and maintaining any tramways under this agreement), under such superintendence as is hereinafter specified, open and break up the soil and pavement of the several public or other streets (as defined in the Calcutta Municipal Consolidation Act, 1876[a]) and bridges in the city of Calcutta, and therein lay sleepers and rails, and from time to time repair, alter or remove the same, and may, for the purposes aforesaid, remove and use all earth and materials in such streets and bridges, and do in and on such streets and bridges all other acts which

Ben. IV of 1876.

[a] Ben. Act IV of 1876 has been repealed by Ben. Act II of 1888, but see para. 4 of s. 2 of the latter Act, *infra*.

they shall from time to time deem necessary for constructing and maintaining such tramways subject to the following conditions :—

1st.—They shall give to the said Corporation notice in writing of their intention to open or break up any such street or bridge, specifying the time at which they will begin to do so, and the portion of the road proposed to be opened or broken up. Such notice to be given at least three days before the commencement of the work.

2nd.—They shall not open or break up or alter the level of any such street or bridge except under the superintendence and to the reasonable satisfaction of the Corporation, for which superintendence the grantees or their assigns shall pay all reasonable expenses unless the Corporation neglect to give such superintendence at the time specified in the notice, or discontinue the same during the work.

3rd.—They shall not, without the consent of the said Corporation, open or break up at any one time a greater length than a quarter of a mile on any one line of tramway.

4th.—They shall, with all convenient speed, and in all cases within six weeks at the most, unless the said Corporation otherwise consent in writing, complete the work for which the said street or bridge shall be broken up and fill in the ground, and make good the surface, and to the satisfaction of the said Corporation restore the street or bridge to as good condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

5th.—They shall make good all damage done to the gas and water-pipes and sewers whether belonging to the Corporation or to private individuals by the disturbance thereof.

6th.—They shall in the meantime, when such street or bridge is opened or broken up, cause it to be fenced and watched, and to be properly lighted at night.

11. The said grantees shall, at their own expense, at all times maintain and keep in good condition, and repair to the reasonable satisfaction of the said Corporation, the rails of which any of the tramways shall for the time being consist, and also so much of any such street or bridge whereon any tramway belonging to them is laid as lies between the rails of the tramway, and, in the case of double lines or turnouts or sidings, the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway, and in the course of carrying out these repairs it shall not be necessary to give notice thereof to the said Corporation.

12. In exercising the powers given to them by clauses 10 or 11 the said grantees shall arrange their work so as to afford the least possible obstruction to the ordinary traffic of the streets, and so as also to admit of as free and unrestricted entry at all times into the sewers through the man-holes and lamp-holes for the time being in use, as is possible under the circumstances, and also so as to enable proper repairs to be made to water or gas-pipes by the direction of the Corporation.

13. If the said grantees shall commit any breach of clauses 10 or 11 or 12, it shall be lawful for the said Corporation in their discretion, where such breach shall be in the execution of any work or repairs, at any time after seven days' notice to the said grantees, themselves to do and execute such work or repairs, and the expense incurred by the said Corporation in so doing, including the cost of superintendence, shall be repaid to them by the said grantees, together with interest at the rate of eight per cent. per annum, and the certificate of the engineer of the said Corporation as to such cost shall be conclusive.

14. If any person or persons sustain any loss or damage by reason of any defect or want of repairs in any of the plant, rolling-stock or other properties of the said grantees or by reason of any carelessness, neglect or misconduct of their agents or servants in the management, construction or use of the said tramways or any portion thereof, or in the exercise of the powers given by clauses 10 or 11, the same shall be made good by the said grantees, and in the event of any suit being instituted against the said Corporation in respect of any of the matters hereinbefore mentioned the said grantees shall, within fourteen days from receipt of a notice thereof from the said Corporation, settle the same; but, if the said grantees choose to defend such suit, they shall be at liberty to do so upon their undertaking to indemnify the said Corporation against all losses, damages and expenses in respect thereof:

Provided always that, if the said grantees fail to settle such suit or to indemnify the said Corporation as is hereinbefore provided, it shall be lawful for the said Corporation to settle the same without any consent or concurrence on the part of the said grantees, and the sum which they shall have to pay in making such settlement, together with interest thereon at the rate of 8 per cent. per annum from the date of payment, and with all expenses which they may be put to, shall be recoverable as a debt from the said grantees.

15. If at any time after the opening of any tramway for traffic the said grantees shall discontinue the working of such tramway or any part thereof for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the grantees), it shall be lawful for

the Corporation, without any previous notice to the said grantees, to remove the tramway or part thereof so discontinued, and the said grantees shall pay to the Corporation the cost of such removal and of the making good of such street or bridge through which the said tramway shall have been made, and the certificate of the engineer of the said Corporation as to such cost shall be conclusive.

16. The said grantees will, if required by the said Corporation, before opening and breaking up the soil and pavement of any street or bridge under clause 10 of these presents, deposit in an approved bank in Calcutta in the name of the said Corporation the sum of Rs. 5,000, or, in their option, promissory notes of the Government of India or municipal bonds of the nominal value of Rs. 5,000, and the same will remain so deposited until the completion by the said grantees of the lines of tramway herein sanctioned for immediate construction. But all interest accruing on the said sum or the said notes shall be credited to the said grantees, and, subject as next hereinafter mentioned, be paid to them as the same shall accrue due:

Provided nevertheless that the said Corporation shall be entitled to deduct out of the sum so deposited or the interest accruing on the said sum or notes or out of the proceeds of sale of the said notes all moneys to which they may be entitled under any clause or clauses of these presents.

17. In consideration of the concession hereby granted the said grantees will pay to the said Corporation rent at the several rates hereinafter specified, namely, from the beginning of the first to the end of the ninth year, at the rate of Rs. 3,000 per annum per mile of double line and Rs. 2,000 per annum per mile of single line; from the beginning of the tenth to the end of the thirteenth year, a rent at the rate of Rs. 3,250 per annum per mile of double line and Rs. 2,250 per annum per mile of single line; from the beginning of the fourteenth year to the end of the seventeenth year, a rent at the rate of Rs. 3,500 per annum per mile of double line and Rs. 2,500 per annum per mile of single line; from the beginning of the eighteenth to the end of the twenty-first year, a rent at the rate of Rs. 3,750 per annum per mile of double line and Rs. 2,750 per annum per mile of single line; and from the beginning of the twenty-second year, a rent at the rate of Rs. 4,000 per annum per mile of double line and of Rs. 3,000 per annum per mile of single line. And the rents aforesaid shall be payable half-yearly and shall form a first charge on the undertaking, and the date on which such rent on each line of tramways or part of a line shall begin to accrue shall be the date on which such line or part of a line of tramway shall be opened for public traffic:

Provided always that no lines or sidings over which passengers or goods

are not carried for hire, connecting the traffic lines with the stables, carriage-sheds or depôts or other property of the grantees shall be included in mileage for which rent shall be payable.

18. If the said rent or any part thereof shall not be paid on due date, the said grantees shall be liable to pay interest thereon at the rate of 8 per cent. per annum from the due date until payment.

19. In consideration of the premises the Corporation shall allow to be deducted from the rent payable under this agreement a sum equal to the amount levied upon the grantees, as the municipal taxes upon their horses, carriages and tramway lines (but not on their depôts and buildings or any other property or effects).

20. From and after the commencement of the fifteenth year of this contract to the end of the twenty-first, the said grantees shall not be at liberty to enter upon any fresh engagements or expenditure which would increase their capital account in connection with this contract, without first notifying their intention to the said Corporation and obtaining their approval thereof and sanction thereto in writing.

21. The Corporation shall have the right of purchasing the said tramways with the plant, buildings, stores, rolling-stock and everything connected therewith upon the expiration of twenty-one years from the commencement of this contract upon declaring its intention so to do in writing not less than six months before the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years, upon similar notice being given, and the consideration for such purchase shall be a cash payment of one and two-fifths of the amount of the invested capital of the said grantees or securities of the Government of India or securities the interest whereon shall have been guaranteed by the Secretary of State for India in Council or debentures of the said Corporation of such amount as to produce at the rate of interest current on such securities seven per cent. per annum on the amount of the said invested capital, and, if the consideration for such purchase shall be given in such securities as aforesaid, the said grantees shall be entitled to have in addition a first mortgage of all the property, assets and profits of the tramway or tramways which shall have been purchased from them.

22. In the event of the said Corporation failing to declare its intention, as above provided, to purchase the property of the said grantees, the terms of this contract shall continue in force.

23. The provisions hereinbefore contained shall, so far as applicable, apply to all tramways to be constructed by the said grantees by any route or routes

to be hereafter fixed by the said Corporation or under clauses 1, 3 and 4 of these presents, and to the works connected with or incidental to such tramways.

24. The date of the commencement of this concession shall be the date on which notice of the sanction of the Government of Bengal to the same shall be given to the said grantees.

25. Unless the said grantees shall have commenced the work of laying down the said tramway within twelve months from the date of the recognition of this agreement by an Act of the Bengal Legislature, the said Corporation shall be at liberty to cease and determine this contract, and to enter into arrangements with any other person or persons for the construction of tramways.

26. Nothing in this agreement shall take away or affect any power which the Corporation may have by law to open, or break up, or to widen, alter, divert or improve any street or road:

Provided always—

1st.—That they shall cause as little detriment or inconvenience to the grantees as circumstances will admit.

2nd.—That they may (if absolutely necessary, but not otherwise) order the temporary stoppage of traffic on the said tramways or any of them on giving twenty-four hours' previous notice in writing to the said grantees.

3rd.—That before they commence any work, whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the grantees notice of their intention to commence such work, specifying the time at which they will begin to do so; such notice to be given eighteen hours at least before the commencement of the work.

4th.—That, in the event of their so interfering with or stopping the running of any tramway under this clause, an abatement proportioned to the length of road over which, and time during which, running is stopped shall be made from the rent hereinbefore reserved and payable by the said grantees.

5th.—That any alteration of the position of any of the tramways, or the making good of any injury or damage that may be occasioned thereto by reason of such widening, alteration or improvement, shall be executed by the grantees at the expense of the Corporation.

27. If any doubt, difference or dispute shall arise between the said grantees and the said Corporation touching the construction of these presents or anything herein contained, or touching or concerning any other matter or thing relating to these presents, then and in every such case such doubt, difference or dispute shall be referred to the arbitration of two persons, one to be chosen

by the said grantees and the other by the said Corporation within one calendar month after either of them shall have made to the other a requisition to that effect, and should the arbitrators fail to agree they shall refer the question or questions at issue to the decision of an umpire to be chosen by the said arbitrators, and the decision of such arbitrators, if they agree, or of such umpire if they disagree, shall be final, and, in case either party shall neglect or refuse to appoint an arbitrator within the specified time, the arbitrator appointed by the other party shall make a decision alone, and the decision of such arbitrators, umpire or arbitrator, as the case may be, shall be effectual and binding upon both parties.

28. The words "the said Corporation" used in this agreement shall include the present Corporation and their successors, and also all persons empowered by the said Corporation or their successors or by other duly constituted authority to do any act or thing or exercise any powers or authorities which the said Corporation are hereinbefore authorized or empowered to do or exercise.

ACT No. III OF 1880.

Received the Lieutenant-Governor's assent on the 7th April, 1880, and the Governor General's assent on the 6th May, 1880.

An Act to amend the Howrah Bridge Act, 1871.[a]

Preamble.

WHEREAS under the sanction of the Lieutenant-Governor of Bengal the Commissioners for making Improvements in the Port of Calcutta, being the Commissioners appointed under Bengal Act IX of 1871[a], have for some time past been running steamers from Calcutta to Howrah and back, and carrying passengers and goods therein, and employing tugs and other boats in towing vessels through the Howrah bridge and generally in the service of the said bridge, and it is expedient that they should continue to own and work such steamers, tugs and boats for the purposes aforesaid, and also that the said Commissioners should have power to build, purchase, provide or procure steam-vessels and tugs and other craft and employ the same for any of the purposes aforesaid: It is hereby enacted as follows:—

To be part of Ben. Act IX, 1871.

1. This Act shall be, and shall be deemed to have always been, a part of Bengal Act IX of 1871.[a]

Commissioners may build or acquire and run steam-

2. It shall be lawful for the Commissioners, with the sanction of the Lieutenant-Governor of Bengal, to build or acquire in any manner whatsoever such steam or other vessels as they may think fit, and to employ the same or

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[a] See *supra*, p. 180.

any of them in towing vessels through the bridge and generally in the service of the bridge, and also in carrying goods, merchandize and passengers to and from such places in Calcutta and Howrah as may from time to time be fixed by the Lieutenant-Governor, and to book and receive goods, merchandize and passengers at any such places, and to make and levy such fees and charges, as may from time to time be prescribed by the Lieutenant-Governor for the aforesaid duties and services.

vessels, &c., in the service of the bridge, and may book goods and passengers.

ACT No. IV OF 1880.

Received the Lieutenant-Governor's assent on the 16th March, 1880, and the Governor General's assent on the 10th May, 1880.

Ben. V of 1870.

An Act for amending the Calcutta Port Improvement Act, 1870[a].

Preamble.

WHEREAS, upon the appointment of the Commissioners for making Improvements in the Port of Calcutta to be Conservators of the said port under the provisions of section 95 of Bengal Act V of 1870[a], the sum of Rs. 17,65,000 was amongst others due from the said Commissioners to the Secretary of State for India in Council, and it was subsequently agreed between the said Commissioners and the said Secretary of State that the former should be held liable for interest on the said Rs. 17,65,000, and should not be called upon to repay the principal, and it is expedient to provide for payment of interest on the said sum; and whereas the said Commissioners have purchased Government securities of the par value of 5½ lakhs of rupees, hereinafter called the reserve fund, to meet sudden and urgent disbursements connected with the said port, and it is expedient to exempt the same from liability for certain debts of the said Commissioners; and whereas it is expedient to empower the said Commissioners to borrow money for the estimated costs of any works hereafter to be undertaken by them, and to borrow from the said Secretary of State the sum of Rs. 53,40,349-3 in respect of works hitherto undertaken by them, and to provide for the repayment of the same, and to further amend Bengal Act V of 1870[a]: It is hereby enacted as follows:—

Short title.

1. This Act may be called the Calcutta Port Improvement Act Amendment Act;

Commencement.

It shall be read with, and taken as part of, Bengal Act V of 1870[a], as amended by Bengal Act VII of 1871[b] and Bengal Act III of 1872[c], and it shall come into force from the date[d] on which it may be published in the Calcutta Gazette with the assent of the Governor General.

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[a] For Ben. Act V of 1870, see *supra*, p. 130.
[b] See *supra*, p. 179.
[c] Ben. Act III of 1872 has been repealed by Act X of 1889.
[d] *i.e.*, the 19th May, 1880.

Repeal of sections of Ben Act V of 1870.

2. Sections 6, 7, 8, 9, 10, 41, 42, 43, 44, 45, 46, 47, 82, 83, 84 and 90 of Bengal Act V of 1870, and Schedules A, B and C annexed thereto, are hereby repealed.

This repeal shall not affect the validity of any thing done or suffered, or any right, title, obligation or liability accrued, before the commencement of this Act.

Property of Commissioners to be held for purposes of this Act, &c.

3. All property vested in, or acquired or held by, and all moneys paid or payable to, the Commissioners, shall be held upon trust for the purposes of this Act and not otherwise.

Commissioners may borrow from Government.

4. It shall be lawful for the Commissioners to borrow from the Secretary of State for India in Council the sum of Rs. 53,40,349-3 upon the terms hereinafter mentioned.

Payment of interest.

5. Interest at the rate of 4½ per cent. per annum upon the said sum of Rs. 53,40,349-3 and upon the said sum of Rs. 17,65,000 shall be paid by the Commissioners to the said Secretary of State half-yearly; the first of such payments to be made on the 30th day of June, 1880.

Repayment of principal.

6. The said sum of Rs. 53,40,349-3, together with the interest thereon, shall be repaid by the Commissioners to the said Secretary of State by equal half-yearly instalments of such amount that the whole shall be repaid within thirty years from the commencement of this Act:

Provided that the Lieutenant-Governor of Bengal may, upon the representation of the Commissioners, and with the sanction of the Governor General in Council, postpone the period of repayment.

In case of default Government how to proceed.

7.[a] In case of default of payment of any interest the Secretary of State shall have the same remedies as may be available to other creditors of the Commissioners under this Act; but nothing in this Act shall be deemed to confer upon the said Secretary of State any prior or greater right than that conferred upon other creditors of the Commissioners under this Act.

Power to repay before due date.

8.[a] It shall be lawful for the Commissioners, if they think fit, out of any moneys which may come into their hands under the provisions of this Act, and which can be so applied without prejudicing the security of the other creditors of the Commissioners under this Act, to repay to the said Secretary of State any sum which for the time being may remain due to him under the provisions of this Act for principal, although the time fixed for the repayment of the same shall not have arrived:

Provided that no such repayment shall be made of any sum less than ten

[a] These sections have been substituted for the original ss. 7 and 8 by Ben. Act I of 1881, s. 2—see Ben. Act I of 1881, s. 2, *infra*, p. 602.

thousand rupees; and that, if such repayment is made, the amount of interest in each succeeding half-yearly instalment shall be adjusted so as to represent exactly the interest due on the outstanding principal.

Money may be raised for works, &c.

9. If the Lieutenant-Governor of Bengal shall by an order published in the Calcutta Gazette so direct, it shall be lawful for the Commissioners from time to time to raise money for the estimated cost of any works or arrangements sanctioned by him to such extent as he may from time to time direct.

Security for loans.

10.[a] In such case it shall be lawful for the Commissioners, with the sanction of the Lieutenant-Governor of Bengal, to raise a loan or loans on the security of all or any portion of the property vested in or acquired by them under this Act, other than the said reserve fund or the sinking fund provided by section 11 of this Act, and of the total aggregate amount of the proceeds of all or any of the tolls, duties, rates and charges leviable under this Act, or on the security of all or any portion of such property or proceeds.

Loans to be contracted in India.

11. Unless the Lieutenant-Governor of Bengal with the previous sanction of the Governor General in Council shall by an order published in the Calcutta Gazette otherwise direct, such loans shall be contracted in India and in the Indian currency, and the Commissioners shall accumulate by half-yearly instalments in the case of each of such loans a sinking fund of such an amount as will suffice to liquidate such loan within a period not exceeding thirty years from the date of the contracting of the same.

Such sinking fund shall be invested in the names of two trustees, one to be appointed by the Lieutenant-Governor of Bengal, and one by the Commissioners, in the promissory notes, debentures, stock and other securities of the Government of India, or in the debentures issued by the Commissioners under this Act.

Loans to be a first charge on property.

12. Such loans and the interest thereon shall be a first charge on the property or on the tolls, duties, rates and charges on the security of which such loans shall have been raised as provided by section 10 of this Act.

Application of funds raised.

13. All the moneys so to be raised shall be applied by the Commissioners to the following purposes:—

(*a*) the construction and repair of works and erections necessary or expedient for the carrying out of the purposes of this Act;

(*b*) the acquisition of immovable and moveable property requisite for such construction or repair as aforesaid;

(*c*) the payment of such salaries, fees and expenses, and such principal and interest, as may be due by the Commissioners.

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[a] This section has been substituted for the original s. 10 by Ben. Act I of 1881, s. 2—see Ben. Act I of 1881, s. 2, *infra*, p. 602.

Application of surplus receipts.

14. Whenever the half-yearly accounts to be laid before the Lieutenant-Governor of Bengal under the provisions of this Act show a surplus for the half-year of receipts over expenditure, such surplus, or so much thereof as the Commissioners shall think fit, may be invested by the Commissioners in the purchase in their corporate name of promissory notes, debentures, stock and other securities of the Government of India, and the interest thereof may be accumulated and invested in like manner, with power to the Commissioners at any time to dispose of any such securities, and to apply the proceeds and interest thereof, with the sanction of the Lieutenant-Governor of Bengal, in or towards any of the purposes of this Act.

Payment of debenture by fresh mortgage of rates.

15. The Commissioners may at any time according to the provisions aforesaid, and with the approval of the Lieutenant-Governor of Bengal, raise in any of the ways aforesaid any money that may be required to pay any amount for the time being due from the Commissioners under this Act.

Form of debentures.

16. All debentures which may be issued under the authority of this Act shall be in the form contained in the schedule hereto annexed, or in such form as may from time to time be approved by the Commissioners and the Lieutenant-Governor of Bengal, and shall be transferable by endorsement; and the right to sue in respect of the moneys secured by any of such debentures shall be vested in the holders thereof for the time being without any preference by reason of some of such debentures being prior in date to others.

17-19.—[*Remedy by attachment if interest not paid or if loan not repaid; attachment how made.*] *Rep. by Ben. Act I of 1881.*

Lieutenant-Governor empowered to make by-laws.

20[a]. The Lieutenant-Governor of Bengal may, on the recommendation of the Commissioners, from time to time make such bye-laws consistent with this Act and with the Indian Ports Act, 1889,[b] as he may think necessary for any of the following purposes (that is to say):— X of 1889.

(*a*) for regulating, declaring and defining the wharves, quays, stages, jetties and piers, on and from which goods shall be landed from and shipped in vessels within the port:

(*b*) for the safe and convenient use of such wharves, quays, stages, jetties and piers and of landing-places, tramways, warehouses, sheds and other works in and adjoining the same;

(*c*) for regulating the reception and removal of goods within and from the premises of the Commissioners, and for declaring the procedure to be followed for taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged;

[a] This section has been substituted for the original s. 20 by Ben. Act I of 1881, s. 4—see Ben. Act I of 1881, s. 4, *infra*, p. 602.

[b] See Act X of 1889, s. 2 (*3*).

(*d*) for the mode of payment of tolls, charges, dues and rates levied under this Act:

(*e*) for the removal of wrecks from the port or the river, and keeping clean the port, the river, the bank of the river and the works of the Commissioners, and for preventing filth and rubbish being thrown therein or thereon;

(*f*) for regulating the hours during which European seamen, and apprentices shipped on the same footing as European seamen, may be employed on board ships lying in the port, or on wharves, quays, stages, jetties and piers, in work necessitating exposure to the sun;

(*g*) for otherwise carrying out the purposes of this Act:

and may, from time to time, on the recommendation aforesaid, vary, alter or revoke any such bye-law so made by him.

Previous to the making, alteration or revocation of any such bye-law, the recommendation of the Commissioners in respect thereof shall be published for three weeks successively in the Calcutta Gazette.

21. [*Amendment of s. 39 (2) of Ben. Act V of 1870.*] *Rep. by Ben. Act II of 1883.*

SCHEDULE[a] (*referred to in section 16*).

Form of Debenture.

The Commissioners for making Improvements in the Port of Calcutta.

The *18* .

No.

By virtue of the Act No. IV of 1880 of the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations entitled the Calcutta Port Improvement Act Amendment Act, we, the Commissioners for making Improvements in the Port of Calcutta, in pursuance of the powers vested in us in sections 9, 10 and 12 of the above Act, and in accordance with the advertisement dated , in consideration of the sum of Rs. paid to us by , promise to pay to the said , or order, the sum of Rs. thirty years after the date hereof, together with interest thereon at the rate of per centum per annum, payable half-yearly on the day of and the day of . But, if default shall be made for two consecutive half-years in either the payment of the interest

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[a] This schedule has been substituted for the original schedule by Ben. Act I of 1881, s. 3—see Ben. Act I of 1881, s. 3, *infra*, p. 602.

or making the necessary investments on account of the sinking fund, the loan shall at once become repayable.

(*Signature of the Chairman or Vice-Chairman, and two Commissioners.*)

ACT No. V OF 1880[a].

Received the Lieutenant-Governor's assent on the 12th April, 1880, and the Governor General's assent on the 17th May, 1880.

An Act to make Vaccination compulsory.

Preamble.

WHEREAS it is expedient to make vaccination compulsory in the town, port and suburbs of Calcutta, and in other towns and selected local areas in the territories administered by the Lieutenant-Governor of Bengal to which this Act may be hereafter extended: It is hereby enacted as follows:—

PRELIMINARY.

Short title.

1. This Act may be called the Bengal Vaccination Act, 1880;

Extent.

It applies in the first instance only to the town, port and suburbs of Calcutta as hereinafter defined;

Power to extend Act to towns and local areas.

But the Lieutenant-Governor may, by notification published in the Calcutta Gazette, declare his intention to extend this Act, or any of its provisions, to any town or selected local area in the territories administered by him.

Objection to such extension.

Any inhabitant of such town or area objecting to such extension may, within six weeks from the said publication, send his objection in writing to the Secretary to the Government of Bengal, and the Lieutenant-Governor shall take such objection into consideration.

Procedure thereon.

When six weeks from the said publication have expired, the Lieutenant-Governor, if no such objections have been sent as aforesaid, or (where such objections have been so sent in) if in his opinion they are insufficient, may by like notification effect the proposed extension.

The Lieutenant-Governor shall cause the substance of any notification mentioned in this section to be proclaimed and notified within the town or area affected by the same, in the vernacular of such town or area, by such means, and in such manner, as he may direct.

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[a] Ben. Act III of 1885, ss. 92-95, and Ben. Act II of 1887, are to be read with and form part of this Act—see Ben. Act III of 1885, s. 96, and Ben. Act II of 1887, s. 1, *infra*.

As to Inspectors of Vaccination and District Boards under the Bengal Local Self-government Act of 1885 exercising the powers of Superintendents of Vaccination and District Magistrates, respectively, under Ben. Act V of 1880, see Ben. Act III of 1885, ss. 93, 94, *infra*.

This Act shall come into force from the day[a] on which it may be published in the Calcutta Gazette with the assent of the Governor General; but its operation in any place may at any time be suspended by the Lieutenant-Governor by notification in the said Gazette. Commencement.

2. In this Act, unless there be something repugnant in the subject or context,— Interpretation-clause.

"town of Calcutta" includes all places within the local limits of the ordinary original jurisdiction of the High Court of Judicature at Fort William in Bengal: "Town of Calcutta."

"port of Calcutta" means the port of Calcutta subject to the jurisdiction of the Commissioners appointed under Bengal Act V of 1870[b]: "Port of Calcutta."

"suburbs of Calcutta" means the suburbs defined by the notification of the 10th September, 1877, and published in the Calcutta Gazette of the 26th September, 1877: "Suburbs of Calcutta."

"parent" includes the father and mother of a legitimate child, and the mother of an illegitimate child: "Parent."

"guardian" means any person to whom the care, nurture or custody of any child falls by law, or by natural right or recognized usage, or who has accepted or assumed the care, nurture or custody of any child, or to whom the care or custody of any child has been entrusted by any authority lawfully authorized in that behalf: "Guardian."

"public vaccinator" means any vaccinator appointed under this Act, or any person duly authorized to act for such public vaccinator: "Public vaccinator."

"medical practitioner" means any person duly qualified by a diploma, degree or license to practise in medicine or surgery, or specially licensed by the Lieutenant-Governor to practise vaccination and grant certificates under the provisions of this Act: "Medical practitioner."

"unprotected child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under the provisions of this Act to be insusceptible of vaccination: "Unprotected child."

"unprotected person" includes a child who has no parent or guardian, and means a person who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under the provisions of this Act to be insusceptible of vaccination: "Unprotected person."

"section" means a section of this Act. "Section."

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[a] *i.e.*, the 26th May, 1880.

[b] See *supra*, p. 180.

VACCINATION OF CHILDREN.

Parent or guardian of children born in compulsory limits,

3. The parent or guardian of every child born in any place to which this Act applies as above provided, or may hereafter be extended, shall within one year after the birth of such child; and

and of unprotected children brought to reside in such limits,

the parent or guardian of every unprotected child under the age of fourteen years brought to reside, whether temporarily or permanently, in such place aforesaid shall, within six months after such child's arrival in such place, or if the child be at the time of its arrival less than one year old, within one year and three months after its birth; and

or living in such limits at the date of this Act coming into force,

the parent or guardian of every unprotected child living in such place at the date of this Act coming into force therein, and whose age at such date exceeds one year, but does not exceed fourteen years, shall, within six months from the said date,

must procure their vaccination.

take it, or cause it to be taken, to a public vaccine-station to be vaccinated, or shall within such period as aforesaid cause it to be vaccinated by some medical practitioner or public vaccinator,

Unprotected child may be required to be vaccinated within fifteen days.

[a]and the parent or guardian of every unprotected child may, whenever the Superintendent of Vaccination, as hereinafter appointed, shall deem it expedient, be served with a notice in the form prescribed in the first schedule of this Act requiring the parent or guardian, within fifteen days after the service of the same, to take such child, or cause such child to be taken, to a public vaccine-station to be vaccinated, or within such period as aforesaid to cause it to be vaccinated by some medical practitioner or public vaccinator, and every such parent or guardian shall within the said period comply with the requisition,[a]

Public vaccinator bound to vaccinate all children brought to him.

and any public vaccinator to whom such child, or to whom any child under the age of fourteen years, is brought for vaccination at such vaccine-station, or who is requested to vaccinate such child elsewhere than at a public vaccine-station, is hereby required, with all reasonable despatch, subject to the conditions hereinafter mentioned, to vaccinate such child.

Inspection.

4.[b] At an appointed hour on the same day in the following week after the operation shall have been performed, or on an earlier day, if required, the parent or guardian shall cause the child to be inspected by the operator, or by any person deputed for that purpose by the Superintendent of Vaccination, that the result of the operation may be ascertained; and it shall be the duty of any public

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[a] This paragraph of s. 3 has been inserted by Ben. Act II of 1887, s. 3—see Ben. Act II of 1887, s. 3, *infra*.

[b] This first paragraph of s. 4 has been substituted for the original paragraph by Ben. Act II of 1887, s. 4—see Ben. Act II of 1887, s. 4, *infra*.

vaccinator who has vaccinated a child elsewhere than at a public vaccine-station to visit the child at the time and for the purpose above mentioned, whether he is requested to do so or not, unless the Superintendent of Vaccination has deputed some other person to act for such public vaccinator in this behalf.

Repetition of vaccination.

In the event of the vaccination being unsuccessful, such parent or guardian shall, if the public vaccinator or medical practitioner so direct, cause the child to be forthwith again vaccinated and subsequently inspected as on the previous occasion.

No fee shall be charged by a public vaccinator for anything done by him under this section.

If child be unfit for vaccination, certificate in form A to be given,

5. If any public vaccinator or medical practitioner shall be of opinion that any child is not in a fit state to be vaccinated, he shall forthwith deliver to the parent or guardian of such child a certificate under his hand according to the form of Schedule A hereto annexed, or to the like effect, that the child is then in a state unfit for vaccination.

which shall remain in force for three months, but shall be renewable.

The said certificate shall remain in force for three months only, but shall be renewable for successive periods of three months until a public vaccinator or medical practitioner shall deem the child to be in a fit state for vaccination, when the child shall, with all reasonable despatch, be vaccinated and a certificate of successful vaccination given in the form of Schedule C hereto annexed, according to the provisions of section 7, if warranted by the result.

Provision for giving certificates of insusceptibility of successful vaccination.

6. If any public vaccinator or medical practitioner shall find that a child whom he has three times unsuccessfully vaccinated is insusceptible of successful vaccination, or that the child brought to him for vaccination has already been successfully inoculated or had the small-pox, he shall deliver to the parent or guardian of such child a certificate under his hand, according to the form of Schedule B hereto annexed, or to the like effect, and, if the Superintendent of Vaccination be satisfied that such child is insusceptible of successful vaccination, he shall endorse such certificate, and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

Provision for giving certificates of successful vaccination.

7. Every public vaccinator or medical practitioner who shall have performed the operation of vaccination upon any child, and shall have ascertained that the same has been successful, shall deliver to the parent or guardian of such child a certificate according to the form of Schedule C hereto annexed, or to the like effect, certifying that the said child has been successfully vaccinated.

No fee to be charged for

8. No fee or remuneration shall be charged by any public vaccinator to the

vaccination at a public vaccine-station or for certificates.

parent or guardian of any child for any such certificate as aforesaid, nor for any vaccination done by him in pursuance of this Act at a public vaccine-station:

Proviso.

But, when a public vaccinator attends at the request of the parent or guardian elsewhere than at a public vaccine-station for the purpose of vaccinating a child, he shall be paid a fee not exceeding eight annas, such fee to be devoted to the purposes in the next succeeding section mentioned.

Fees how to be appropriated.

9. All such fees shall, in Calcutta, be paid in by the public vaccinator to the credit of the Corporation of the Town of Calcutta, and be by them appropriated for the purposes of this Act. In places outside Calcutta such fees shall be appropriated as the Lieutenant-Governor may from time to time direct.

Superintendent of Vaccination or his assistants may inspect vaccination of child.

10. The Superintendent of Vaccination as hereinafter appointed or any of his assistants may from time to time inspect the vaccination of any child, whether performed by a public vaccinator or medical practitioner, and may, if he think fit, direct that such child be forthwith again vaccinated.

Vaccination of Unprotected Persons.

Unprotected persons to be vaccinated.

11. Every unprotected person may, whenever the said Superintendent of Vaccination shall deem it advisable, be served with a notice in the form in Schedule D hereto annexed, requiring him within fifteen days after the service of the same to submit himself to a public vaccinator or medical practitioner to be vaccinated, and every such person shall within the said period submit himself to a public vaccinator or medical practitioner for vaccination.

Former sections applicable.

12. The provisions of sections 3 to 10 (both inclusive) shall apply with the necessary alterations to the case of unprotected persons.

Health Officer of Port may cause vaccination of unprotected persons on their arrival.

13. The powers conferred by sections 11 and 30 upon the said Superintendent of Vaccination may in the case of unprotected persons arriving in the port of Calcutta be exercised by the Health Officer of the said port immediately upon their arrival.

Health Officer may, in certain cases, require immediate vaccination of unprotected person on board.

[a] If a vessel arrives in the said port of Calcutta having on board any person suffering from the disease of small-pox, the said Health Officer may, if he deem it expedient in order to prevent the risk of the contagion of small-pox being conveyed into the town or suburbs of Calcutta, require any unprotected person on board such vessel to submit himself forthwith to be vaccinated, and every such person shall before leaving the vessel submit himself to the said

[a] The second paragraph of s. 13 and the proviso have been added by Ben. Act II of 1887, s. 5—see Ben. Act II of 1887, s. 5, *infra*.

Health Officer, or any person duly authorized to act in this behalf, for vaccination:

Provided that nothing herein contained shall apply to any vessel belonging to, or in the service of, Her Majesty or the Government of India, or to any vessel belonging to any foreign Prince or State.[a] Proviso.

13A.[b] Every person occupying any house, enclosure, vessel or other place within the limits of the town or port of Calcutta, or the suburbs of Calcutta, or the town of Howrah, shall allow the Superintendent of Vaccination, or a medical practitioner or public vaccinator duly authorized by him in this behalf, such access thereto as he may require for the purpose of ascertaining whether the inmates are protected or not, and as, having regard to the customs of the country, may be reasonable. Occupier of house, &c., to allow access.

Whenever it is necessary to ascertain whether a woman is protected or not, the investigation shall be conducted by a female with strict regard to the habits and customs of the country.

PROCEDURE APPLICABLE TO THE TOWN OF CALCUTTA ONLY.

14. For the purposes of this Act, the Corporation of the Town of Calcutta (hereinafter called the Corporation) shall, subject to the approval of the Lieutenant-Governor, appoint such stations for the performance of vaccination as they shall from time to time deem fit. Such stations shall be called "public vaccine-stations". Public vaccine-stations.

The Corporation shall appoint such public vaccinators and vaccination-establishments for carrying out the purposes of this Act as they shall from time to time deem fit. Appointment of public vaccinators, &c.

The positions of the public vaccine-stations fixed under the provisions of this section, and the days and hours of the public vaccinators' attendance at each station, shall be published from time to time in such manner as the Corporation may direct. Notification of stations and hours of attendance.

15. The Corporation may from time to time make such rules, consistent with this Act, as they may deem fit, for regulating the expenses of such vaccination-establishments aforesaid, the payment of public vaccinators and the realization and scale of fees under this Act. Power of Corporation to make rules.

16. The Health Officer for the Town of Calcutta shall be *ex officio* Superintendent of Vaccination for the said town. Such officer, subject to the orders of the Lieutenant-Governor, shall have a general control over all the proceed- Superintendent of Vaccination.

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[a] See foot-note on preceding page.
[b] S. 13A has been inserted by Ben. Act II of 1887, s. 6—see Ben. Act II of 1887, s. 6, *infra*.

ings of public vaccinators, and shall perform such duties in connection with public vaccination, in addition to those prescribed by this Act, as shall be required by the Lieutenant-Governor.

Assistant Superintendents.

The Lieutenant-Governor may appoint, if necessary, one or more assistants to the Superintendent, and from time to time remove any such assistant.

Expenses of establishments to be a charge on the Corporation.

17. The expenses of all vaccination-establishments under this Act, and of the supply of lymph in Calcutta, shall, unless the Lieutenant-Governor otherwise direct, be defrayed by the Corporation.

REGISTRATION.

Registrar of Births to give notice of the requirement of vaccination.

18. On the registration of the birth of any child under the provisions of Chapter VIII of the Calcutta Municipal Consolidation Act, 1888[a], or of any other law for the time being in force, the Registrar shall deliver to the person giving information of such birth a printed notice in the form of Schedule E hereto annexed, or to the like effect, and such notice shall have attached thereto the several forms of certificates prescribed by this Act. Ben. II of 1888.

Duplicates of all certificates to be transmitted to the Registrar.

19. Every public vaccinator or medical practitioner, who gives to any parent or guardian a certificate in any of the forms of the said Schedules A, B and C, shall, within twenty-one days after giving the same, transmit a duplicate thereof to the Registrar of Births of the district where the birth of the child on whose account such certificate was given has been registered, or, if that be not known to him, or, if the child was born out of the Town of Calcutta, or his birth has not been registered in the said town, to the Registrar of the district within which the child was vaccinated or presented for vaccination.

Registrar to keep a vaccination notice and certificate book,

20. The Registrar of Births shall keep a book in such form as may from time to time be prescribed by the rules made under section 33, in which he shall enter minutes of the notices of vaccination given by him as herein required, and shall also register the duplicates of certificates transmitted to him as herein provided.

and also a duplicate register of births, with entries concerning vaccination,

21. He shall also prepare and keep a duplicate of the register of births required to be kept by him under the provisions of the Calcutta Municipal Consolidation Act, 1888[a], or of any other law for the time being in force, with such additional columns as shall from time to time be prescribed by the rules made under section 33, in which he shall record the date of every duplicate certificate in the form of the said Schedule B or Schedule C received Ben. II of 1888.

[a] See Ben. Act II of 1888, s. 2, *infra*.

by him concerning any child whose birth he has registered, and make an entry to the effect that the child has been vaccinated or is insusceptible of vaccination, as the case may be.

22. He shall also keep a register of postponed vaccinations in the form of Schedule F hereto annexed, in which he shall record the name of every child concerning whom he receives a duplicate certificate in the form of the said Schedule A, together with the date of such duplicate certificate, and of each such successive duplicate certificate, if he receives more than one, and shall show the number and year of the entry, if any, in the register of births in which such child's birth has been registered.

and also a register of postponed vaccinations.

23. Every Registrar shall transmit on or before the fifteenth of every month to the Superintendent of Vaccination a return, in such form as may from time to time be prescribed by the rules made under section 33, of all cases in which duplicate certificates have not been duly received by him in pursuance of the provisions of this Act during the last preceding month.

Transmission of returns to Superintendent.

24 The Lieutenant-Governor may direct that the duties imposed on the Registrar of Births under sections 19, 20, 21, 22 and 23 shall be performed by any other person appointed by the Lieutenant-Governor.

Lieutenant-Governor may direct any person to perform duties of Registrar.

Procedure applicable outside the Town of Calcutta.

25. In any municipality other than the Town of Calcutta, and in any local area to which this Act may hereafter be extended, the Magistrate of the district* may exercise all or any of the powers by this Act conferred upon the Corporation;

Powers of Corporation may be exercised in Mufassal by Magistrate of the district;

and the Civil Surgeon of the district or such other officer as the Lieutenant-Governor may from time to time appoint in that behalf shall exercise the powers and perform the duties by this Act assigned to the Superintendent of Vaccination.

and of Superintendent of Vaccination by Civil Surgeon.

Prosecutions and Offences.

26. If the Superintendent of Vaccination shall notify in writing to a Magistrate that he has reason to believe from the statement of an informant or otherwise that any child under the age of fourteen years is an unprotected child, and that he has given notice to the parent or guardian of such child to procure its being vaccinated, and that the said notice has been disregarded, such Magistrate may summon such parent or guardian to appear with the child before him; and, if the Magistrate shall find, after such enquiry as he shall deem necessary, that the child is an unprotected child, he may, whether

Magistrate may make an order for the vaccination of any unprotected child under fourteen years.

* Now District Magistrate—see Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 32.

the child has been produced or not, make an order directing such child to be vaccinated within a certain time. If the child is at any time produced before him, the Magistrate may, unless the child is certified under section 5 to be in a state unfit for vaccination, order it to be vaccinated forthwith in his presence, and in that case may punish such parent or guardian for any recusancy under this clause with fine which shall not exceed five rupees.

Penalty for disobedience of such order.

If at the expiration of the time appointed by the Magistrate the child shall not have been vaccinated, or shall not be shown to be then unfit to be vaccinated, or to be insusceptible of vaccination, the person upon whom such order shall have been made shall, unless he can show some reasonable ground for his omission to carry the order into effect, be punished with fine which may extend to fifty rupees;

Proviso for costs to person improperly summoned.

Provided that, if the Magistrate shall be of opinion that the person is improperly brought before him, and shall refuse to make an order for the vaccination of the child, he may direct the said Superintendent to disclose the name of his informant, if any, and may order such informant to pay to such person such sum of money as the Magistrate shall consider a fair compensation for expenses and loss of time in attending before him:

Provided also that nothing in this section shall be held to compel the production before a Magistrate of any female child above the age of eight years.

Penalty for not producing a child.

27. If any parent or guardian intentionally omits to produce a child whom he has been summoned to produce under the last preceding section, he shall be liable to fine which may extend to one hundred rupees, and to a further fine of twenty-five rupees for every day during which the offence continues:

Provided that the aggregate amount of fine for such offence shall not exceed one thousand rupees.

Penalty for neglect to be vaccinated.

28. Whoever, in contravention of this Act—

(*a*) neglects without reasonable excuse to submit himself within fifteen days after the service on him of the notice prescribed by section 11 to a public vaccinator or medical practitioner to be vaccinated, or after vaccination to be inspected, or

Penalty for neglect to take child to be vaccinated, &c.

(*b*) neglects without reasonable excuse to take or cause a child to be taken to be vaccinated, or after vaccination to be inspected, or

(*c*) neglects to fill up and sign and give to any person or to the parent or guardian of any child any certificate which such person, parent or guardian is entitled to receive from him, or to transmit a duplicate of the same to the Registrar of Births, [a]or

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[a] The word "or" in cl. (*c*), and cl. (*d*), of s. 28 have been added by Ben. Act II of 1887, s. 7—see Ben. Act II of 1887, s. 7, *infra*.

(*d*)[a] refuses without reasonable excuse to submit himself to be vaccinated when required so to do by the Health Officer exercising the powers conferred upon him by section 13,

shall be punished for each such offence with fine which may extend to fifty rupees.

No prosecution under this section shall be instituted after the expiry of twelve months from the date on which the offence has been committed.

Penalty for making or signing false certificate.

29. Whoever wilfully signs or makes, or procures the signing or making of, a false certificate or duplicate certificate under this Act, shall be punished with imprisonment of either description, within the meaning of the Indian Penal Code,[b] for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

of 1860.

Penalty for obstructing public vaccinator in the discharge of his duties.

29A.[c] Whoever voluntarily obstructs any public vaccinator in the discharge of the duties assigned to him as such shall be punished for each such offence with fine which may extend to fifty rupees.

Vexatious entry by public vaccinator.

29B.[c] Any public vaccinator who vexatiously and unnecessarily enters any house, enclosure, vessel or other place, on pretence of ascertaining whether the inmates, or any of them, are protected or not, shall for every such offence be punished with fine which may extend to fifty rupees.

Prosecutions to be instituted by Lieutenant-Governor or Superintendent of Vaccination.

30. All offences under this Act shall be cognizable by a Magistrate, subject to the provisions of any law for the time being in force for the trial of offences; but no complaint of any such offences shall be entertained unless the prosecution be instituted by order of, or under authority from, the Lieutenant-Governor or the Superintendent of Vaccination.

Prosecution for neglect.

31. In any prosecution for neglect to procure the vaccination of a child it shall not be necessary in support thereof to prove that the defendant had received notice from the Registrar or any other officer of the requirements of the law in this respect; but, if the defendant produce any such certificate as hereinbefore described, or the duplicate of the register of births or the register of postponed vaccinations kept by the Registrar as hereinbefore provided, in which such certificate shall be duly entered, the same shall be a sufficient defence for him, except in regard to the certificate according to the form of the said Schedule A, when the time specified therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid.

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[a] See foot-note on preceding page.

[b] See Act XLV of 1860, s. 53, in General Acts, 1834—66, 2nd Ed., p. 249.

[c] Ss. 29A and 29B have been inserted by Ben. Act II of 1887, s. 8—see Ben. Act II of 1887, s. 8, *infra*.

MISCELLANEOUS.

Annual return to be made of the number of children vaccinated, &c.

32. It shall be the duty of the Superintendent of Vaccination to show in an annual return the number of children successfully vaccinated, the number whose vaccination has been postponed, and the number certified to be insusceptible of successful vaccination during the year; and generally to fill up any forms that may be prescribed from time to time by the Lieutenant-Governor or the Corporation.

Lieutenant-Governor to make rules.

33. The Lieutenant-Governor may from time to time make rules or issue orders consistent with this Act—

(*a*) determining the qualifications to be required of public vaccinators;

(*b*) regulating the scale of fees to be paid outside the Town of Calcutta;

(*c*) regulating the gratuitous vaccination of such females as are by the custom of the country unable to attend at the public vaccine-stations and are too poor to pay fees;

(*d*) providing for the supply of lymph;

(*e*) regulating the books and forms to be kept by the public vaccinators or by Registrars, and also such forms as shall be required for the signature of medical practitioners under the provisions of this Act; and generally

(*f*) for the guidance of public vaccinators and others in all matters connected with the working of this Act.

All such rules or orders shall be published in the Calcutta Gazette.

THE FIRST SCHEDULE.*

(*See section 3.*)

To

[*Here insert the name of the parent or guardian.*]

Take notice that you are hereby required, under the provisions of the Bengal Vaccination Act, 1880, to take, or cause [*here insert the name of the child*] the child of [*here insert the name of the father*] to be taken, to a public vaccine-station for vaccination, or to cause it to be vaccinated by some medical practitioner or public vaccinator within fifteen days from the service of this notice, and that in default of so doing you will be liable to a fine of fifty rupees.

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* This Schedule has been newly added by Ben. Act II of 1887.

The public vaccine-station nearest your house is at ; the days and hours for vaccination at that station are as follows :—

[*Here insert the days and hours when the public vaccinator is in attendance.*]

On the said [*here insert the name of the child*] being brought before a public vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine-station in the town on the days and within the hours prescribed for public vaccination at such station, the said [*here insert the name of the child*] will be vaccinated free of charge.

If you wish the said [*here insert the name of the child*] to be vaccinated at your own house, the public vaccinator will attend there upon payment of a fee of

Dated the of 18 .

Superintendent of Vaccination,
or Civil Surgeon, as the case may be.

SCHEDULE A.

(*See section 5.*)

I, the undersigned, hereby certify that in my opinion the child of , resident at , is not now in a fit and proper state to be vaccinated, and I do hereby recommend that the vaccination be postponed for the period of three months from this date. Dated this day of 18 .

(*Signature of Medical Practitioner or Public Vaccinator.*)

SCHEDULE B.

(*See section 6.*)

I, the undersigned, hereby certify that I have three times unsuccessfully vaccinated , the child of , residing at (*or* that the child has already had small-pox, *as the case may be*), and I am of opinion that the said child is insusceptible of successful vaccination. Dated this day of 18 .

(*Signature of Medical Practitioner or Public Vaccinator.*)

(*Endorsement by Superintendent of Vaccination.*)

SCHEDULE C.

(*See section 7.*)

I, the undersigned, hereby certify that , the child of , age , resident at , has been successfully vaccinated by me. Dated this day of 18 .

(*Signature of Medical Practitioner or Public Vaccinator.*)

SCHEDULE D.

(*See section 11.*)

To

Take notice that you are hereby required under the provisions of the Bengal Vaccination Act, 1880, to submit yourself to a public vaccinator or medical practitioner within fifteen days from the service of this notice for vaccination, and that in default of so doing you will be liable to a fine which may amount to fifty rupees.

The public vaccine-station nearest your house is at . The days and hours for vaccination at that station are as follows:—

(*Here insert the days and hours when the public vaccinator is in attendance.*)

On your attending before a public vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine-station in the town on the days and within the hours prescribed for public vaccination at such station, you will be vaccinated free of charge.

If you wish to be vaccinated at your own house, the public vaccinator will attend there upon payment of a fee of

Dated the of 18 .

Superintendent of Vaccination,
or Civil Surgeon, as the case may be.

SCHEDULE E.

(*See section 18.*)

To

(*Here insert the name of the parent, guardian or other person who gives information of the child's birth.*)

Take notice that the child of (*here enter the mother's name*), whose birth has this day been registered, must be vaccinated under the provisions of the Bengal Vaccination Act, 1880, within one year from the date of its birth, under penalty.

The public vaccine-station nearest to the house in which the child was born is at No. . The days and hours for vaccination at that station are as follows :—

(*Here insert the days and the hours when the public vaccinator is in attendance.*)

On your taking, or causing the child to be taken, to the public vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine-station in the city on the days and within the hours prescribed for public vaccination at such station, it will be vaccinated free of charge.

If you wish to have the child vaccinated at your own house, the public vaccinator will attend there upon payment of a fee of .

You should be careful to have one of the annexed forms of certificates filled in by the public vaccinator, or, if you employ a private medical practitioner to vaccinate the child, by such medical practitioner, and to keep the same in your possession. Any such certificate will be granted to you by a public vaccinator free of charge.

Dated the of 18 .

Registrar of Births.

SCHEDULE F.

(*See section 22.*)

Register of Postponed Vaccinations for the District of

Consecutive number.	Name of child.	Birth.		Date of certificate of postponement.		Signature of Registrar.
		Year.	Number of entry in register.			
1	Ram Chunder Dass .	1878	12	1878. May . .	10	H. O.

THE BENGAL DRAINAGE ACT, 1880.

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SCHEDULES.

ACT No. VI OF 1880.[a]

Received the Lieutenant-Governor's assent on the 22nd April, 1880, and the Governor General's assent on the 28th May, 1880.

An Act to provide for the Drainage and Improvement of Lands.

WHEREAS it is expedient that provision should be made for the better drainage and improvement of lands in the territories administered by the Lieutenant-Governor of Bengal; It is hereby enacted as follows:— Preamble.

PRELIMINARY.

1. This Act may be called the Bengal Drainage Act, 1880. Short title.

It extends to all the territories for the time being under the administration of the Lieutenant-Governor of Bengal; Extent.

and it shall come into force from the date[b] on which it may be published in the Calcutta Gazette with the assent of the Governor General. Commencement.

2. Bengal Act V of 1871 (*the Hooghly and Burdwan Drainage Act*) shall be repealed on and from the date upon which this Act comes into force, but, subject to the provisions of this Act, this repeal shall not affect the past operation of such Act, or anything duly done or suffered, or Repeal of Ben. Act V of 1871.

[a] The Bengal Embankment Act, 1882, does not apply to any embankment, land or water-course which is under the operation of this Act—see Ben. Act II of 1882, s. 91, *infra*.
[b] *i.e.*, the 9th June, 1880.

any right, privilege, obligation or liability acquired, accrued or incurred thereunder.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

"The Collector."

"The Collector" means the officer in charge of the revenue-jurisdiction of the district within which the lands which form the subject of a scheme under this Act, or the greater portion of such lands, are situate. If any doubt arises as to whether the greater portion of the lands is situate within one of two or more districts, the Board of Revenue shall decide the point, and such decision shall be final:

"The Commissioners."

"the Commissioners" mean the Drainage Commissioners to be appointed under this Act:

"Estate."

"estate" means land included under one entry in the general registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law for the time being in force by any Collector of a district, or a share of, or interest in, such land:

"Proprietor."

"proprietor" means a person who as owner is solely or jointly in possession of an estate:

"Tenure."

"tenure" means—

(1) a permanent rent-paying interest in land immediately subordinate to that of a proprietor, and superior to that of a raiyat, extending to not less than one hundred standard bighás affected or to be affected by any works under this Act;

(2) a permanent revenue-free or rent-free interest in land affected or to be affected by any works under this Act, when there exists no rent-paying interest in the same land between the proprietary interest in the estate and such revenue-free or rent-free interest:

"Under-tenure."

"under-tenure" means—

(1) a permanent rent-paying interest in land subordinate to that of a tenure-holder and superior to that of a raiyat, extending to not less than one hundred standard bighás affected or to be affected by any works under this Act;

(2) a revenue-free or rent-free interest in land affected or to be affected by any works under this Act, when there exists a rent-paying interest in the same land between the proprietary interest in the estate and such revenue-free or rent-free interest.

Explanation.

The term "permanent" is used with reference to the tenure or under-tenure itself, and

not with reference to the person who happens to hold such tenure or under-tenure for the time being. A tenure or under-tenure is none the less permanent although held by a Hindu widow, a Sebait or a person subject to the Mitakshara law:

"landholder" and "holder of land" mean— "Landholder and "holder of land."

(1) any person who as owner of an estate is solely or jointly in possession thereof;

(2) any person who as owner of a tenure or under-tenure is solely or jointly in possession thereof;

where two or more persons are joint landholders, they shall be jointly and severally liable under this Act, except as is otherwise expressly provided herein:

"reclaimed land" means land which was unfit for cultivation before the execution of any works under this Act, but which has been rendered productive by such works: "Reclaimed land."

"improved land" means land which was more or less fit for cultivation before the execution of any works under this Act, but of which the productive powers have been increased by such works: "Improved land."

"Part" and "section" mean, respectively, a part and section of this Act. "Part" and "section."

PART I.

Appointment of Commissioners and Conduct of Business.

4. Whenever it appears expedient to the Lieutenant-Governor to carry out any scheme and plans for the drainage and improvement of any tract of land, the Lieutenant-Governor may appoint any number of persons, not less than seven, of whom the majority shall be qualified by being holders of lands to be affected by the works mentioned in the said scheme and plans, or managers on behalf of such holders, to be Drainage Commissioners for carrying out the provisions of this Act; Lieutenant-Governor to appoint Commissioners.

and the Lieutenant-Governor may from time to time remove or accept the resignation of any such Commissioner, or may add to the number of the Commissioners, and may appoint another person in the place of any such Commissioner dying, resigning, being removed or ceasing to reside in the district in which such lands are situate, but so as that the majority of the Commissioners shall always be persons qualified as aforesaid.

No act done or proceeding taken by the Commissioners shall be invalid merely on the ground that at the time of doing such act or of taking such proceeding the majority of the Commissioners were not persons qualified as aforesaid.

Lieutenant-Governor to appoint chairman. Commissioners may sue and be sued in his name.

5. The Lieutenant-Governor shall from time to time appoint one of the persons so appointed Commissioners as aforesaid to be chairman of the Commissioners, and may at any time, if he see fit, revoke such appointment and appoint another of such persons to be chairman. The Commissioners may sue and be sued in the name of their chairman.

Meetings of Commissioners and quorum.

6. The Commissioners shall ordinarily meet for the transaction of business once at least in every quarter. Such meeting shall be held upon such day and at such hour as the Commissioners shall from time to time determine. No business shall be transacted at any meeting unless at least three members are present at the commencement and close of such business.

Extraordinary meetings.

7. The chairman of the Commissioners may, whenever he thinks fit, and shall, upon request made in writing by three of the Commissioners, call an extraordinary meeting of the Commissioners.

Presidency of meetings.

8. The chairman shall preside at every meeting of the Commissioners, but, in case of his absence at the time appointed for holding a meeting, the Commissioners present may choose one of their number to be president of such meeting.

Transaction of business at meetings.

9. (*1*) All questions at any meeting, including the question of adjourning such meeting, shall be decided by a majority of votes of the members present. In case of an equality of votes the president for the time being of such meeting shall have a second or casting vote.

Delegation of powers to committee.

(*2*) The Commissioners may delegate any of their powers to committees consisting of such member or members of the body as they think fit. Any committee so formed shall, in the exercise of the powers delegated, conform to any regulations that may be imposed on them by the Commissioners.

Election of chairman of committee.

(*3*) A committee may elect a chairman at their meetings. If no chairman is elected, or if he is not present at the time appointed for holding any meeting, the members present shall choose one of their number to be chairman of the same.

Adjournment, voting, &c., of committee.

(*4*) A committee may meet and adjourn as they think proper. Questions at any meeting shall be determined by a majority of votes of the members present, and in case of an equal division of votes the chairman shall have a second or casting vote.

Power to appoint servants.

10. The chairman of the Commissioners may by an order in writing appoint and dismiss such servants and officers, other than engineers and their subordinates, as may be required for the purposes of this Act, and he may control them as he shall see fit. There shall be paid to such servants and

officers, respectively, such salaries as may appear to the Commissioners to be proper.

11. The Lieutenant-Governor may, when satisfied that the objects of their appointment have been fulfilled, direct that the powers and functions of the Commissioners shall cease.

When objects of their appointment fulfilled, Lieutenant-Governor may direct Commissioners' powers and functions to cease.

PART II.

Drainage Scheme.

12. The Commissioners shall within three months after their appointment cause a notification in the language of the district to be published by beat of drum in every village in which may be situate any portion of the lands to be affected by the works proposed in such scheme and plans. Every such notification shall be in the form in Schedule A hereto annexed, and shall further be published by posting the same at the office of the Collector and of the Subdivisional Officer and in some conspicuous part of the village aforesaid, and at the Court of the Munsif within whose jurisdiction, and at the thánâ within the limits of which, such village is situate.

Commissioners to cause a notification of the scheme to be published.

13. After the date named in such notification a list of the persons who may have given their assent or made any objection in writing in accordance with such notification shall be prepared and published in the manner provided in section 12 for the information of all concerned. Such list shall contain a specification of the land in respect of which such persons claim to vote as landholders, and of the titles in virtue of which they claim to vote respectively: and there shall be appended thereto a notice that objections to the right of voting so claimed must be lodged with the Commissioners within one month after the publication of the said list.

List of persons assenting or objecting to be published.

14. (*1*) The Commissioners may, at some meeting to be held not less than one month after such list has been published under the provisions of section 13, proceed to ascertain whether the holders of half of the lands to be reclaimed or improved have assented in writing to the adoption of the scheme. For the purpose of so ascertaining the Commissioners shall take into account the vote of not more than one landholder in respect of any one portion of the area affected, and, whenever more than one landholder shall have given his vote in respect of the same portion of such area, the Commissioners shall take into account the vote of the landholder who holds the lowest interest in respect of such area, and shall not take into account in respect of such area the vote of any superior landholder who may have voted.

Commissioners how to ascertain what proprietors have assented.

Example—

A gives his vote as proprietor of 5,000 bighás;

B as patnidár of 2,000 bighás included in A's proprietary of 5,000 bighás;

C as mokararidár of 100 bighás included in B's patni;

D as holding a permanent jama of 500 bighás included in A's proprietary of 5,000 bighás; but not in B's patni of 2,000 bighás.

The Commissioners shall take into account the votes of the respective landholders in respect of the following areas:—

D for	500 bighás.
C "	100 "
B " (2,000—100=)	1,900 "
A " (5,000—2,000—500=) . . .	2,500 "
Total .	5,000

Vote for estate, tenure, &c., held by two or more co-sharers.

(*2*) One vote only shall be allowed in respect of an estate, tenure or under-tenure belonging to two or more co-sharers. In order to ascertain whether this vote shall be taken as assenting or objecting to the adoption of the scheme, regard shall be had to the votes of the co-sharers individually, and account shall be taken of those only who actually vote. If the majority assent, a vote of assent shall be deemed to have been given in respect of the estate, tenure or under-tenure. If the majority object, a vote of objection shall be deemed to have been given. If the number assenting and the number objecting are equal, no vote shall be deemed to have been given in respect of such estate, tenure or under-tenure.

Persons voting to specify the extent of their lands.

15. The Commissioners may in their discretion refuse to take into account the vote of any person who, after being required to do so, fails to specify the extent of land held by him, and the nature of the interest which he has in such land.

Commissioners to decide who is entitled to vote.

16. (*1*) Whenever the right of any person to vote as a holder of any land shall be disputed, the Commissioners shall determine whether the vote of such person shall or shall not be accepted in respect of such land, and their determination shall be final for the purposes of section 17:

Provided that any "recorded proprietor," as defined by section 3 of the Land Registration Act, 1876,[a] shall be entitled to vote in respect of any property of which he is the recorded proprietor. Ben. VII of 1876.

Vote for property held by a minor or lunatic.

(*2*) In the case of a landholder who is a proprietor disqualified to manage his own property under the provisions of the Court of Wards Act, 1879,[b] Ben. IX of 1879.

[a] See *supra*, p. 293. [b] See *supra*, p. 430.

or any similar law for the time being in force, or who is a minor or a lunatic, the right to vote shall be exercised by any manager of the property of such disqualified proprietor or minor or lunatic, appointed by the Court of Wards or by the Civil Court under the provisions of any law for the time being in force, or, where no such manager has been appointed, by any person who, in the opinion of the Commissioners, duly represents the interests of such minor or lunatic.

Case of landholder not found.

(*3*) Where the holder of any land cannot be found, such land shall be altogether excluded in any computation that may be made in order to determine whether the landholders of not less than half of the area to be reclaimed or improved have assented to the adoption of the scheme.

If half of landholders agree, Commissioners to consider the scheme submitted.

17. If the landholders of not less than half of the area to be reclaimed or improved, ascertained as above provided, shall have assented to the adoption of the scheme, and not otherwise, the Commissioners shall proceed to consider such scheme, together with the plans and estimates for carrying out the same, and shall further consider such objections as have been made thereto; and may adopt such schemes, plans and estimates or may alter and modify the same, and adopt the scheme, plans and estimates so altered or modified, or may disapprove or reject the same.

Power to proceed with portion of scheme.

18. If the landholders of half of the area to be reclaimed and improved do not assent to such scheme, but the landholders of half the area to be affected by some portion of such scheme assent thereto, the Commissioners may resubmit such portion of the scheme to the Lieutenant-Governor, and may, with his approval, proceed thereupon in manner aforesaid.

Scheme approved by Commissioners to be laid before the Lieutenant-Governor.

19. If the Commissioners adopt such scheme, plans and estimates, or any modification or alteration thereof, they shall, within one month after such scheme, plans and estimates, or some modification or alteration thereof, have been adopted by them, cause the same to be laid before the Lieutenant-Governor, and the Lieutenant-Governor may sanction the scheme, plans and estimates so adopted, or any portion thereof, as to him shall seem fit.

Power to reconsider scheme and modify it.

20. (*1*) The Commissioners may, with the previous assent of the Lieutenant-Governor, at any time reconsider any scheme, plans or estimates adopted by them, and add to, alter or modify the same;

and, when any addition, alteration or modification has been adopted by them, they shall cause the same to be laid before the Lieutenant-Governor:

the Lieutenant-Governor may sanction such addition, alteration or modification, or any portion thereof, as he may think fit.

and thenceforth the provisions of this Act shall apply to such addition, alteration or modification as if it had been a portion of the original scheme, plans or estimates; and every such addition, alteration or modification, after

it has been adopted, shall be published by the Commissioners as to them shall seem fit.

No such addition, alteration or modification shall be adopted at a meeting at which the majority of the members present are not qualified as provided by section 4.

Publication of modified scheme.

(*2*) No addition, alteration or modification under clause (*1*), to or of any scheme which affects any lands other than those which would be affected by some scheme theretofore published, shall be adopted by the Commissioners until the same has been published for not less than fifteen days, according to the provisions of section 12, in every village in which may be situate any portion of the lands to be affected by such addition, alteration or modification; nor shall any such addition, alteration or modification be adopted unless the landholders of not less than half the entire area to be affected by the scheme as so added to, altered or modified assent to the same.

Powers for the acquisition of land.

21. When the Lieutenant-Governor has sanctioned any scheme, plans and estimates as aforesaid, or some portion thereof, he may direct proceedings to be taken under the provisions of the Land Acquisition Act, 1870,[a] or any other law for the time being in force for the acquisition of land for public purposes, in order to obtain any land likely to be required for the works mentioned in such sanctioned scheme, plans and estimates, or any portion thereof. X of 1870.

Lieutenant-Governor may order scheme to be carried out.

22. The Lieutenant-Governor may, if he thinks fit, order the works specified in such sanctioned scheme, plans and estimate, or portion thereof, to be executed by an officer to be thereunto appointed by the Lieutenant-Governor, and may, subject to the sanction of the Governor General of India in Council, order the advance from the public funds of such sum of money as may be required for the purpose of making such improvements; and such officer may cause the works specified in such scheme and plans to be executed, and for that purpose may by himself, his agents and workmen enter into or upon any lands and perform such works thereupon as may be required.

Power to Lieutenant-Governor to modify scheme.

23. The Lieutenant-Governor may at any time after the said works have been commenced by an order sanction any alteration or modification of such scheme or plan suggested to him by the officer in charge of such works, if after communication with the Commissioners it shall appear to him that by such alteration or modification the general character and scope of the scheme will not be altered, nor greater expenditure incurred thereon, than would be incurred in the scheme as originally sanctioned; and, after such sanction, such

[a] See General Acts, 1867—76, 2nd Ed., p. 177.

alteration or modification shall be taken to be a portion of the scheme adopted by the Commissioners in substitution for the portion of such scheme thereby altered, and every such alteration or modification shall be published by the Commissioners as to them shall seem fit.

Claims to compensation for damage caused in carrying out scheme or works.

24. (*1*) Any person who alleges that damage has been caused to his property by any scheme or works commenced or carried out under this Act may, at any time before the expiry of the three years mentioned in clause (*1*) of section 28, prefer to the Commissioners a claim for compensation in respect of such damage actually caused, and of all future damage likely to be caused to such property by such scheme or works.

Compensation to be assessed by the Commissioners.

The Commissioners shall duly consider any such claim; and, if they are satisfied that such damage has been caused or is likely to be caused, they shall assess such compensation as to them appears fair and reasonable.

If such person agrees to accept the amount so assessed, the same shall be paid to him:

Reference to Civil Court if amount assessed be not accepted.

if he do not agree to accept such amount, the Commissioners shall make a reference to the Civil Court in the manner in which a Collector is empowered to make a reference by section 15 of the Land Acquisition Act, 1870[a], and the provisions of Part III of the said Act shall apply to any reference so made.

of 1870.

Reference to Civil Court where amount of compensation agreed to or settled by Court, but dispute as to its apportionment.

(*2*) When the persons interested in such property, to which damage has been caused as aforesaid, agree to accept the amount of compensation assessed by the Commissioners, but a dispute arises as to the apportionment of the same or any part thereof, or when the amount of compensation has been settled by the Court on a reference under clause (*1*) of this section, and a similar dispute arises, the Commissioners shall refer such dispute to the decision of the Civil Court, and the provisions of Part IV of the said Land Acquisition Act[a] shall apply to any reference so made.

of 1870.

Reference may in certain cases be transferred to Subordinate Judge or Munsif for disposal.

(*3*) When the amount of compensation assessed by the Commissioners does not exceed one thousand rupees, any reference made under the said clause (*1*) may be transferred by the principal Civil Court of original jurisdiction of the district to any Subordinate Judge in the same district, and such Subordinate Judge shall have power to hear and dispose of the same; and any reference made under clause (*2*) of this section may be transferred by such principal Civil Court to any Munsif in the same district, and such Munsif shall have power to hear and dispose of the same.

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[a] For Act X of 1870, see General Acts, 1867–76, 2nd Ed., p. 177.

PART III.

Expenditure and Apportionment.

Cost of compensation, &c., to be deemed part of expense of construction. Such expense may be defrayed by advances from the public funds.

25. All amounts paid as compensation for any lands taken for the purposes of this Act, or for damage inflicted in carrying out any scheme or works under this Act, or as salaries of officers, servants or establishments, or for surveys or valuations (whether antecedent or subsequent to the preparation of the scheme and plans), and all amounts otherwise duly expended in carrying out the purposes of this Act, shall be included in, and deemed to constitute the cost of, construction of the works, and may be defrayed by advances from the public funds as provided by section 22.

Interest to be paid on such advances. Such interest after completion of the works to be payable half-yearly to Collector by the holders of the lands affected.

26. (*1*) All such advances shall bear interest at the rate of five per centum per annum until recovered in the manner hereafter in this Act provided. All such interest, which falls due before the completion of the works is certified to the Commissioners as hereafter provided, shall, upon such completion being so certified, be added to the total amount of the principal sums advanced; and interest at the rate of five per centum per annum upon the total of such interest and principal shall thereafter be payable to the Collector half-yearly by the holders of the lands affected by the works.

Commissioners to distribute liability to pay interest amongst landholders and certify same to the Collector.

(*2*) It shall be the duty of the Commissioners to distribute the liability to pay such half-yearly interest amongst such landholders, as soon as the completion of the works has been certified to them, and to report the details of such distribution to the Collector.

How the liability to pay interest is to be distributed.

(*3*) In order to the distribution of such liability the Commissioners shall have regard to the plans and estimates of the scheme and to such other information as may be supplied to them by the officer in charge of such works, and shall distribute the liability in a general way, so that the share of the interest payable by the holders of each estate, tenure or under-tenure from whom any sum is made payable shall be in proportion to the benefit to be derived by the lands of such holders, so far as the Commissioners can judge of such proportions.

Notice of amount of interest payable half-yearly to be served on each landholder. Amount, if not paid,

(*4*) Notices shall be served upon such holders setting forth the half-yearly amount of interest payable by them and the date upon which it is payable. Where two or more persons are joint holders of an estate, tenure or under-tenure, service of notice under this clause on any one such person shall be deemed to be good and sufficient service on each and all of such persons. If such half-yearly amount be not paid upon such date, the Collector may

proceed for its recovery according to the law for the time being in force for the recovery of public demands.

recoverable as a public demand.

27. The officer in charge of the said works shall, until the same shall be finally completed, once in every three months make a detailed report to the Commissioners of the progress of such works and the expenditure thereupon from the day up to which the next preceding report shall have been brought down; and the Examiner of Public Works Accounts to the Government of Bengal, or some other officer authorized in that behalf by the Lieutenant-Governor, shall from time to time certify the sums advanced in accordance with the provisions of section 25, and the dates of such advances and every such certificate shall be final and conclusive evidence in a Civil Court, or in any proceedings under this Act, of the sums therein stated to have been advanced having been so advanced, and of the dates upon which they were respectively so advanced.

Reports to be made and expenditure certified.

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28. (*1*) The officer in charge of the works shall, as soon as they have been completed, certify such completion to the Commissioners; and the Commissioners shall, upon the expiry of three years from such completion being so certified to them, proceed to classify all the lands benefited by the works according to the degree of benefit conferred; and in such classification they shall distinguish the improved lands from the reclaimed lands:

Commissioners upon expiry of three years from completion report to classify lands benefited by the works, distinguishing between improved lands and reclaimed lands.

It shall be lawful for the Commissioners at any time during such three years to make such inspections of the lands and such surveys thereof, and otherwise to collect such information, as shall in their opinion conduce to the making of such classification, and of the apportionment hereinafter mentioned.

(*2*) The Commissioners shall, after making such classification, proceed further to apportion the total cost of construction, together with the interest mentioned in section 26, upon the improved lands and reclaimed lands, and shall draw up a statement showing the amount payable to the Collector by each landholder—

Cost of construction with interest to be apportioned upon the improved lands and reclaimed lands.

(*a*) in respect of his improved lands, if any; and

(*b*) in respect of his reclaimed lands, if any.

In making this apportionment the Commissioners shall, as far may be possible, make payable in respect of each plot or field of improved land a sum not exceeding the amount of the increased capitalized value, which, in the opinion of the Commissioners, has been conferred on such land by the works.

Amount payable for the improved lands not to exceed value of improvement.

29. If upon the completion of the apportionment under section 28 it shall be found that any landholder has, under the provisions of section 26, paid more or less interest than he would have been required to pay according to the

Adjustment of excess or deficient payments of interest.

proportions adopted in the apportionment under clause (*2*) of section 28, if such apportionment had then been in force, the Commissioners shall direct such refunds to be made or such additional amounts to be levied as shall be necessary to bring the payments of all the landholders concerned into conformity with such portions.

When the land is part of a tenure, &c., Commissioners may declare who shall be deemed liable as landholders.

30. Whenever any land, in respect of which any sum is apportioned as payable under the provisions of section 26 or 28, forms part of a tenure, or of a tenure and of an under-tenure, it shall be lawful for the Commissioners to declare whether the holders of the estate, of the tenure or of the under-tenure, shall be deemed to be the landholders liable to pay to the Collector the sum apportioned as payable in respect of such land.

Amounts made payable to be a charge upon the improved lands and reclaimed lands respectively. Secretary of State for India in Council to have a perpetual lien for their recovery.

31. The total sum so made payable in respect of the improved lands of any one landholder, and the total sum so made payable in respect of the reclaimed lands of any one landholder, with interest upon such sums at five per centum per annum from the date of apportionment, and any interest payable under section 29, and any interest payable under clause (*1*) of section 26, but not paid or recovered before the apportionment under section 28, shall be a first charge upon such improved lands and upon such reclaimed lands respectively. Such charge shall not be avoided by the sale of such lands or of any estate, tenure or under-tenure within which they are included for arrears of revenue or rent.

Commissioners to report apportionment.

32. The Commissioners shall, so soon as conveniently may be, after having apportioned the sums to be payable by the holders of the lands of any village respectively, make and publish a report describing the several lands in respect of which they have declared such sums to be payable, the names of the respective holders thereof who have been made liable to pay the same to the Collector, and the sum payable by each in respect of the same. Every such report shall distinguish between the reclaimed lands and the improved lands, and shall classify the latter according to the extent of the improvement. A copy of such report shall be sent through the Collector to the Commissioner of the division for confirmation by such Commissioner.

In default of Commissioners, officer appointed by Lieutenant-Governor to make apportionment and report.

33. If the Commissioners shall, for the space of three months after the completion of the entire works has been certified to them as aforesaid, neglect or refuse to proceed with the apportionment of the sums payable as aforesaid, or to make such report as aforesaid, or, for the space of two months after any report and apportionment shall have been returned to them for further consideration and revision under the provisions hereinafter contained, neglect or refuse to proceed to such further consideration and revision as is required, the Collector may serve them with a notice requiring them to proceed as aforesaid

and, if for one month after service of such notice they neglect so to proceed, the Lieutenant-Governor may appoint such officer or officers as to him shall seem fit to make or consider and revise such apportionment and report, and to do all or any of the subsequent acts which the Commissioners are hereby required or empowered to do in respect of such apportionment and report; and every apportionment and report so made or revised and every such act so done shall have the same force and effect as if the same had been made, revised or done by the Commissioners.

Report to be published.

34. Whenever any apportionment and report have been made in pursuance of the provisions hereinbefore contained, the Commissioners shall cause such report to be published by affixing in every village in which any lands mentioned therein are situate a copy of so much thereof as relates to such lands, and also a like copy at the office of the Collector and of the Subdivisional Officer, and at every Munsif's Court within whose jurisdiction, and at every police-tháná within the limits of which, such village, or any part thereof, is situate. The fact of such apportionment and report having been made, and such copies having been affixed shall also be notified by beat of drum in every such village.

Appeal against apportionment.

35. Any person who may deem himself to be aggrieved by any such apportionment may, within one month after such report has been published, prefer an objection before the Commissioners, and the Commissioners shall be bound to enquire into and decide upon such objection; and any person who is dissatisfied with such decision may within one month from the date of such decision appeal to the Commissioner of the division against such apportionment; and such Commissioner shall cause notice of the day fixed for the hearing of such appeal to be published by affixing the same in the office of the Collector and of the Subdivisional Officer and in a conspicuous place in every village, and in the Court of every Munsif within whose jurisdiction, and at every police-tháná within the limits of which, any of the lands mentioned in such report are situate.

Such Commissioner shall hear such appeal and the objections thereto of all persons interested, and may confirm such apportionment, or may revise and alter the same as to him shall seem fit, or may return the same to the Commissioners for further consideration and revision:

Provided that the total sum apportioned by every apportionment and report so revised and altered, as payable in respect of all the lands improved or reclaimed by the works, shall not be less than the total cost of the construction of such works within the meaning of section 25.

Every such apportionment and report when revised or altered shall, so far

as the same has been altered, be published, and be liable to appeal, in like manner as the original apportionment and report.

The decision of the Commissioner of the division upon any appeal under this section shall be final.

Final determination of apportionment.

36. Whenever the Commissioner of the division shall confirm any apportionment and report, or whenever one month shall have elapsed from the publication of any report without any appeal therefrom having been preferred he shall pass an order declaring the sums payable in respect of the lands respectively and the persons liable to pay the same to be determined, and shall cause such order to be published in such manner as to him shall seem fit.

PART IV.

Recovery of Sums due to the Collector.

Collector to serve notice of apportionment, requiring payment or engagement to pay.

37. As soon as any apportionment has been determined as aforesaid, the Collector may cause a notice in the form in Schedule B hereto annexed to be served upon any landholder who has not paid the sum payable by him. Such notice shall require such landholder within one month from the date of its service upon him to pay such sum with interest at the rate of five per centum per annum, or to enter into an engagement for the payment by instalments extending over a period of not more than ten years of such sum, together with interest at the said rate on all instalments remaining unpaid at the date of such payment.

If amount not discharged, the Collector may recover it as a public demand.

38. If any landholder fails to discharge the sum made payable in respect of his improved lands or in respect of his reclaimed lands, or fails to enter into an engagement for the payment thereof as in this Act hereafter provided, or having entered into such an engagement fails to discharge any instalment payable thereunder, such sum or such instalment, together with interest thereupon at five per centum per annum, shall be recoverable under the provisions of any law for the time being in force for the recovery of public demands.[a]

Collector may also with sanction of Board of Revenue raise unpaid amount by leasing or mortgaging the improved or reclaimed lands.

39. If the Collector thinks it inexpedient to proceed under the provisions of section 38, or having so proceeded shall have failed to realize the sum due, he may, with the sanction of the Board of Revenue, raise the amount necessary to discharge the sum or instalment remaining unpaid—

(*a*) by letting in perpetuity or for a term, on payment of a premium equivalent to such amount, the whole or any part of such improved lands or reclaimed lands;

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[a] See Bom Act VII of 1880, *infra*, p 515.

(*b*) by mortgaging the whole or any part of such improved lands or reclaimed lands;

(*c*) by letting in farm or managing by himself or another the whole or any part of such improved lands or reclaimed lands; or

(*d*) partly by one of such modes and partly by another or others of them.

For the purposes of this section the Collector may exercise all the powers of the owner of such improved or reclaimed lands: and his signature shall be a good and sufficient signature to any document necessary to carry into effect the said purposes.

Recovery of unrealized portion of charge.

40. In case the Collector certifies that any sum payable as hereinbefore provided cannot be realized as provided by section 38 or 39, so much of such sum as shall not have been so realized shall be a charge upon any profits that may accrue from the property vested in the Collector under the provisions of section 47.

Power to repay advances

41. Any landholder who has entered into an engagement for the repayment of any sum apportioned as aforesaid may at any time repay to the Collector the entire amount of the principal sum which shall be then remaining due, and interest thereupon up to the day of payment, and thenceforth the said engagement shall be terminated and all liabilities in respect thereof for principal or interest shall determine.

PART V.

Recovery by Landholders or Superior Tenants of the Cost of the Works from Persons holding Land under them.

Proprietor may recover from subordinate tenants.

42. Every landholder who has been charged with any sum by a report published as aforesaid may, after he has paid or engaged to pay the same,—

(*a*) proceed under any law for the time being in force to enhance the rents of any person holding immediately from him any land the productive powers of which have been increased by any works carried out under this Act: provided that any such person may at his option elect to pay under clause (*b*) of this section; or

(*b*) recover such sum or any part thereof, according to the proportions hereinafter provided, with interest at the rate of five per centum per annum from the date of payment by him of any portion thereof, from the persons holding immediately from him lands in respect of

which such sum has been declared payable, and which have been benefited by any scheme or works carried out under this Act.

(*c*) The sum recoverable by such landholder from each such person under clause (*b*) in respect of the lands of each class shall bear the same proportion to the sum charged upon such landholder in respect of all lands of that class as the area of the lands of that class which are held by such person bears to the area of the lands of the same class in respect of which the landholder has been charged. No person from whom a landholder is authorized to recover any sum under this section shall be liable to pay in any one year more than one-tenth part of the total sum so recoverable from him, and no person shall be liable to pay in one year more than the increased annual value of the lands in respect of which the payment is made.

Recovery by superior tenant.

43. Any superior tenant, who has made any payment to a landholder under the provisions of clause (*b*) of section 42, may—

(*a*) proceed under any law for the time being in force to enhance the rents of any person holding directly from him lands the productive powers of which have been increased by any works carried out under this Act: provided that any such person may at his option elect to pay under clause (*b*) of this section; or

(*b*) recover the sum or part of the sum which has been so paid by him according to the proportions and subject to the rules laid down in clause (*c*) of section 42, with interest at the rate of five per centum per annum from the date of payment by him of any portion thereof, from the persons holding directly from him lands in respect of which the payment has been made, and which have been benefited by any scheme or works carried out under this Act.

Mode and time of payment.

44. (*1*) The sum payable to a landholder or superior tenant in any one year under clause (*b*) of section 42 or under clause (*b*) of section 43 shall be payable by equal instalments upon the days appointed for the payment to such landholder or superior tenant of the rent of the lands concerned and shall be recoverable as if the same were an arrear of rent.

Provision in case of dispute as to the amount to be paid.

(*2*) If such landholder or superior tenant and any person holding lands directly from him cannot agree as to the amount which such person shall pay, such landholder or superior tenant may serve such person through the Collector with a notice setting forth the amount which he claims, and requiring such person, within one month after the service of such notice, to pay the amount claimed or enter into an engagement for the payment thereof by instalments

extending over a period of not more than ten years, or appear before the Collector and object.

(*3*) If such person do not within the said period of one month appear and object, the amount set forth in such notice shall be recoverable with interest at five per centum per annum. If such person appear and object, the Collector shall dispose of such objection, and his decision shall be final. The Collector may direct that any sum of money payable under his decision, together with any cost awarded by him, be paid by instalments extending over a period of not more than ten years. The provisions of clause (*1*) of this section shall apply to every sum payable according to an order of the Collector passed under this section.

Collector to decide objection.

45. No person from whom any sum has been recovered under clause (*b*) of section 42 or under clause (*b*) of section 43 shall be subject to any claim for enhanced rent on account of the benefit caused by the works to his lands.

Proviso.

PART VI.

MISCELLANEOUS.

46. All outlets and water-channels, natural or artificial, which shall be altered, enlarged, excavated or cut under the provisions of this Act, and the construction and maintenance of embankments and of dams and works therein or connected therewith, shall, save as hereinafter provided, be subject to the law for the time being in force regulating the construction and maintenance of public embankments and public rivers, channels and outlets.

Drainage-works to be subject to the laws relating to embankments.

47. All lands which are taken under the provisions of this Act for the purpose of the construction of works therein or thereon, and all works constructed under the provisions of this Act, as well as all outlets, water-channels, embankments and dams so constructed, altered, enlarged, excavated or cut, shall be vested in the Collector of the district for the time being on behalf of the Secretary of State for India in order to effectuate and maintain the objects of this Act; and, to assist the Collector in the management of the same, the Lieutenant-Governor may appoint, or authorize the election, by the landholders aforesaid, of a committee consisting of not less than four or more than six persons, being themselves holders of the lands reclaimed or improved.

Lands and works to be vested in Collector on behalf of Secretary of State.

48. (*1*) The expense of keeping in efficient order and repair any improvements or works effected under this Act shall be charged to the profits from the property vested in the Collector under section 47, and, if such profits shall not suffice, the balance shall be paid to the Collector in the proportions of the original

Cost of maintenance of works.

contribution by the holders for the time being of the lands which have been benefited by such works; and all sums payable to the Collector under the provisions of this section shall be recoverable in the manner provided by section 38, or in the manner provided by section 39, and every proprietor or other person who has paid any such sum may recover the same, or any part of the same, in the proportion and subject to the rules laid down in section 42 or 43, as the case may be.

Recovery of items omitted from apportionment.

(*2*) Any such amount as is specified in section 25 which from oversight or other cause has been omitted from the appointment and report made under section 32 or section 33 may be charged and recovered under the provisions of clause (*1*) of this section.

Surplus profits from property vested in Collector under section 47 to be appropriated to payment of debt to Government.

(*3*) If, on the first day of January next before the last instalments payable under the provisions of section 36 are due, there is, after providing for the expense of keeping in efficient order and repair the improvements and works executed under this Act, a surplus of the profits from the property vested in the Collector under section 47, such surplus or as much thereof as will suffice shall be appropriated to the liquidation of the said last instalments. Any landholder who has paid any such instalment in advance under the provisions of section 41 shall be entitled to a refund in proportion with interest at 5 per cent. per annum.

Cost of maintenance may be capitalized, and the capitalized amount levied.

(*4*) The Lieutenant-Governor may at any time, in his discretion, direct that the total average annual expense, which over and above such profits as aforesaid is necessary to keep such improvements and works in efficient order and repair, be estimated, and that there be levied from such landholders, in lieu of all future contributions to the maintenance of such improvements and works, such amount as being invested in Government securities at the current rate of interest shall yield a sum equal to such average annual expense. The provisions of sections 31, 38 and 39 shall apply to such capitalized amount.

Powers for taking evidence.

49. The Commissioners, the Commissioner of the division and every officer appointed by the Lieutenant-Governor under section 33 shall have the powers conferred on Civil Courts by the Code of Civil Procedure[a] for compelling the attendance of witnesses and the production of evidence and for examining witnesses in any enquiry or appeal which they or he may be empowered to make or entertain under the provisions of this Act. XIV of 1882.

Rent-free lands may be deemed subordinate tenures.

50. Any land held free of rent or revenue, being less than one hundred standard bighas in extent, and not being a property entered on the Collector's general register of revenue-free lands, may for the purposes of this Act be

[a] See Act XIV of 1882, s. 3 and Chaps. XIV and XV, in General Acts, 1882—84, pp. 32, 78, *et seq.*

deemed to form a tenure or under-tenure held immediately from some landholder, and the Commissioners shall determine who shall be deemed to be the landholder in respect of such tenure :

Provided that any holder of such land, who may deposit the cost of survey of his land at a rate to be approved by the Commissioners and calculated on the area claimed by him, shall be entitled to be deemed a landholder in respect of such lands within the meaning of this Act.

Sum payable by holder of rent-free land to be payable in two instalments.

51. Wherever any land as mentioned in the last preceding section shall be deemed to form a tenure or under-tenure held immediately from a landholder as therein provided, every sum payable to the landholder in respect of such land in any one year shall be payable in two equal instalments on such dates as the Commissioner of the division may fix. Such Commissioner shall cause due notice to be given in the villages concerned of the dates so fixed by him.

Service of notices.

52. All notices under this Act required to be served may be served by delivering the same to the person to be served, or by posting the same upon the door of his dwelling-house, or if such person cannot be found and his dwelling-house is not known, then by posting the same on some conspicuous part of the land to which such notice relates, and copies thereof at the Munsif's Court within whose jurisdiction, and the police-thánâ within the limits of which, such land is situate.

Proceedings not to be invalidated by formal errors.

53. No proceeding under this Act shall be defeated or invalidated by reason of any defect in the number or property of assenting landholders, nor by any defect or omission in the publication or service of any notification, notice or order, unless material injury is done to any person by such defect or omission ; and every order and report of the Commissioners, of the Collector and of any officer appointed by the Lieutenant-Governor under section 33 shall be conclusive evidence that all notifications and notices hereby required as preliminary thereto had been duly published and served, and that all other preliminaries thereunto had been duly performed, and, save as is hereinbefore provided, shall be final and conclusive.

Portion of scheme may be deemed separate scheme.

54. The Lieutenant-Governor may by an order in writing direct that any portion of a scheme adopted and ordered to be executed under this Act shall, for the purposes of this Act or for any such purposes, be deemed to be a separate scheme.

Lieutenant-Governor may empower other person to act for Collector.

55. The Lieutenant-Governor may specially empower any person to do all or any acts, to discharge all or any functions, and to exercise all or any powers which may be done, discharged or exercised by a Collector under this Act, and, on any person being so specially empowered, such person may do all or any of such acts, discharge all or any of such functions, and exercise all

or any of such powers, and such person shall be deemed to be the Collector for the purposes of the scheme in respect of which he is so specially empowered.

Collector may delegate authority.

56. The Collector may, with the sanction of the Commissioner of the division, delegate to any Deputy, Assistant or Sub-Deputy Collector, or to any similar officer, the performance of any acts and the discharge of any functions which the said Collector may perform or discharge under this Act;

and upon such delegation such Deputy Collector or other officer may do any such acts and discharge any such functions;

and may exercise any powers for the performance of the same which the Collector may exercise under this Act:

Provided that all acts done, functions discharged and powers exercised by such officer shall be done, discharged or exercised subject to the control and supervision of the Collector.

Control of Commissioner.

57. Notwithstanding anything hereinbefore contained, all the proceedings of the Commissioners and of the Collector under this Act shall be subject to the general control and supervision of the Commissioner of the division.

Power to make, alter and cancel rules.

58. The Lieutenant-Governor may from time to time make rules to regulate the following matters :—

(*a*) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

(*b*) the person by whom, the time, place or manner at or in which, anything for the doing of which provision is made in this Act shall be done;

(*c*) and generally to carry out the provisions in this Act.

The Lieutenant-Governor may from time to time alter or cancel any rules so made.

Publication of rules.

Such rules, alterations and cancelment shall be published in the Calcutta Gazette, and shall thereupon have the force of law.

PART VII.

Special Provisions for Works carried out under Bengal Act V of 1871.

Portions of this Act applicable to works carried out under Ben. Act V of 1871.

59. The following portions of this Act shall apply to any scheme or works carried out under the provisions of Bengal Act V of 1871,[a] that is to say :—

(*a*) as to the method of realizing sums due on account of the cost of the works—sections 31, 38, 39 and 40;

(*b*) as to the recovery by landholders or superior tenants of the cost of the works from persons holding land under them—Part V:

(*c*) as to other matters—Part VI.

[a] Bengal Act V of 1871 has been repealed by this Act—see s. 2, *supra*, p. 491.

Revision of apportionment of cost of scheme or works carried out under Ben. Act V of 1871.

60. If the Lieutenant-Governor is satisfied that the apportionment of the cost of any scheme or works carried out under the provisions of Bengal Act V of 1871[a] is inequitable for reasons discovered by the operation of the completed scheme, or on grounds not originally considered by the Commissioners, the Lieutenant-Governor may, at any time within one year after the commencement of this Act, direct a revision of the said apportionment, and may for the purpose of such revision appoint Commissioners. The provisions of Part I shall be applicable to the appointment of, and to the conduct of business by, such Commissioners.

Commissioners to be guided in making such revision by certain provisions of this Act.

61. Such Commissioners shall proceed without delay to revise such apportionment, and in making such revision they shall be guided by the provisions of sections 28, 32 and 34, so far as the same may be applicable, and shall have regard to the degree of benefit which, upon taking proceedings under this section, they may find to have been conferred on the lands:

Provided that the total sum apportioned upon such revision as payable in respect of all the lands improved or reclaimed by the works shall not be less than the total cost of the construction of such works within the meaning of section 25.

Commissioners may increase or reduce apportionment.

Appeal.

62. For the purpose of making such revised apportionment such Commissioners shall have full power to increase or reduce the apportionment which was previously made upon individuals, and to direct such refunds to be made to, or additional payments to be levied from, individuals, as may be necessary to give full and complete effect to such revision. Any person dissatisfied with any order passed by such Commissioners under this section may appeal to the Commissioner of the division, and the provisions of section 35 shall be applicable to any such appeal.

Finality of revised apportionment. Realization of sums due thereunder.

63. The provisions of section 36, as to an apportionment becoming final, shall be applicable to such revised apportionment; and the provisions of sections 31, 38, 39 and 40 shall be applicable to the realization of any sums which may become payable under the same.

SCHEDULE A (*referred to in section 12*).

Bengal Drainage Act, 1880.

To all whom it may concern.

Take notice that it is proposed to drain and improve certain lands in the

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[a] Ben. Act V of 1871 has been repealed by this Act—see s. 2, *supra*, p. 491.

village of , pergunnah . Plans and provisional estimates of the works proposed are now lodged in . and may be inspected by any person interested on any of the days and at any of the times specified below till the day of next. (*Here specify the days and hours at which the plans and the estimates will be open to inspection.*)

All proprietors of estates paying revenue direct to Government of which any lands may be affected by the proposed drainage and improvement,

all owners of revenue-free lands borne on the Collector's general register of revenue-free lands, which may be so affected, all persons having permanent rent-paying interests in tenures, under-tenures or lands extending to not less than one hundred standard bighás to be so affected,

and all persons having permanent rent-free interests in tenures, under-tenures and lands to be so affected,

are hereby called upon to inspect the said plans and estimates.

Those who wish the works to be carried out and are willing to bear their proportion of the cost thereof are requested to send to the Drainage Commissioners their assent in writing, signifying therein, so far as possible, the nature and extent of their interest in such land, on or before the day of 18 . Those who have any objection to the execution of the said works are required to send in their objection in writing to the said Commissioners on or before the said day.

All persons who are hereby called upon to give their assent or express their objections in writing are warned that under the law the Commissioners are not bound to recognize any such assent or objection unless the person making the same specifies the extent and portion of the land which he holds, and the tenure or interest which he has in the same.

Collector, for the Drainage Commissioners.

SCHEDULE B (*referred to in section 37*).

Bengal Drainage Act, 1880.

To

Take notice that the Drainage Commissioners have apportioned against you the sum of as your contribution in respect of the lands of , and that you are hereby required, within one month from the date of the service of this notice, to pay to me the said sum of

Rs. , together with interest at the rate of five per centum per annum from the day of , or to enter into an engagement for the payment of the same by instalments extending over a period of not more than ten years.

Collector.

THE PUBLIC DEMANDS RECOVERY ACT, 1880.

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   Judgment-debtor may bring a suit in the Civil Court to contest the certificate. If no such suit is brought within one year, or if brought is decided against judgment-debtor, certificate to become absolute and have effect of a decree.

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FIRST SCHEDULE.—REPEALS.

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ACT No. VII OF 1880.[a]

Received the Lieutenant-Governor's assent on the 22nd April, 1880, and the Governor General's assent on the 26th June, 1880.

An Act to amend the law for the recovery of certain Public Demands.

WHEREAS it is expedient to amend the law for the recovery of certain dues and debts demandable by public officers: It is hereby enacted as follows:— Preamble.

1. This Act may be called the Public Demands Recovery Act, 1880. Short title.

Notwithstanding anything contained in section 2, it extends to all the territories for the time being administered by the Lieutenant-Governor of Bengal. Extent.

It shall come into operation on and after the date[b] on which it shall be published in the Calcutta Gazette with the assent of the Governor General. Commencement.

2. This Act, so far as is consistent with the tenor thereof, shall be construed as one with Act XI of 1859,[c] passed by the Governor General in Council, and Act VII of 1868,[d] passed by the Lieutenant-Governor of Bengal in Council. The powers given by this Act shall be deemed to be in addition to, and not in derogation of, any powers conferred by any Act now being in force for the recovery of any due, debt or demand to which the provisions of this Act are applicable. Construction of this Act.

3. The Acts specified in the first schedule annexed to this Act are hereby repealed from and after the commencement of this Act, to the extent specified in the third column of that schedule: Repeal of Act in schedule.

Provided that this repeal shall not affect—

(*a*) the past operation of any enactment hereby repealed, nor anything duly done or suffered thereunder;

(*b*) any liability created under any enactment hereby repealed.

Every certificate made under the provisions hereby repealed of Act VII of 1868, passed by the Lieutenant-Governor of Bengal in Council, may be enforced under the provisions of this Act. Certificate under Ben. Act VII of 1868 to be enforced under this Act.

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[a] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2. It has been extended to the Districts of Sylhet and Goálpára, excluding the Eastern Dwárs, under s. 5 of the Scheduled Districts Act, 1874, but is partially repealed in those districts by the Assam Land and Revenue Regulation, 1886—see Appendix to Assam Supplement.

The Act has, so far as it relates to recovery of arrears of land-revenue, been repealed in territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. I of 1886, s. 2, in Assam Supplement.

[b] *i.e.*, the 14th July, 1880.

[c] See Vol. I, p. 380.

[d] See *supra*, p. 116.

Definitions.

4. In this Act, unless the context otherwise requires, but not in the other Acts mentioned in section 2,—

"Section."

"section" means a section of this Act:

"Collector."

"Collector" means, (*a*) within the local limits of the ordinary original jurisdiction of the High Court of Judicature at Fort William in Bengal, the Collector of Calcutta; (*b*) without those limits, the Collector of a district or any officer specially appointed by the Lieutenant-Governor to perform the functions of a Collector under this Act; and (*c*) any officer in charge of a sub-division of a district whom the Collector of such district, with the sanction of the Commissioner, authorizes to perform such functions as aforesaid.

5. In the following cases, that is to say:—

When an estate or tenure has been sold for its own arrears; and the sale-proceeds are insufficient to liquidate the same; or

(1) when, under the provisions of Act XI of 1859,[a] passed by the Governor General in Council, or of Act VII of 1868,[b] passed by the Lieutenant-Governor of Bengal in Council, an estate or tenure has been sold for the recovery of arrears of revenue due thereupon, and, after deducting the expenses of such sale, the balance of the sale-proceeds remaining is insufficient to liquidate the arrears of revenue in discharge of which such sale-proceeds may under the aforesaid provisions be applied;

when arrears of revenue due from a farmer are not paid on latest date of payment;

(2) when arrears of revenue due from a farmer on account of an estate held by him in farm are not paid on the latest day of payment fixed under the provisions of section 3 of Act XI of 1859,[a] passed by the Governor General in Council;

the Collector of the district may make a certificate of the unpaid arrears.

the Collector may make under his hand, and in form No. 1 in the second schedule annexed to this Act, a certificate of the amount of arrears so remaining unpaid, and may cause the same to be filed in his office.

Such certificate shall have the force and effect of a decree of a Civil Court as regards the remedies for enforcing it.

6. (*a*) Subject to the provisions of this Act, every certificate made under the provisions of section 5 shall, as regards the remedies for enforcing the same and so far only, have the force and effect of a decree of a Civil Court, and the Secretary of State for India in Council shall be deemed to be the decree-holder, and the person therein named as debtor shall be deemed to be the judgment-debtor.

Judgment-debtor may bring a suit in the Civil Court to contest his

(*b*) Such judgment-debtor may, at any time within one year after the service upon him of such notice as is mentioned in section 10, bring a suit in the Civil Court to have the said certificate cancelled on the ground that the arrears stated therein were not due by him; but no such suit shall be enter-

[a] For Act XI of 1859, see Vol. I, p. 380.

[b] See *supra*, p. 116.

tained unless such judgment-debtor has paid such arrears to the Collector within one month after being served with the said notice, or, in any case in which he has filed a petition of objection under section 12, then within fifteen days after such petition has been heard and determined.

liability, if he has deposited the amount of the certificate.

(*c*) If no such suit is instituted within the said period of one year, or if any such suit, having been so instituted, is decided against such judgment-debtor, such certificate shall become absolute, and shall have to all intents and purposes the effect of a final decree of a Civil Court.

If no such suit is brought within one year, or if brought is decided against judgment-debtor, certificate to become absolute, and have effect of a decree.

7. When any arrears of the following public demands are unpaid by the person liable to pay the same, that is to say :—

When any arrear of a public demand is unpaid by the person liable to pay the same,

(1) any sum of money which by any law for the time being in force is declared to be recoverable or realizable as an arrear of revenue or land-revenue, or by the process prescribed for the recovery of arrears of revenue or of the public or Government revenue:

(2) any sum of money due from the sureties of a farmer in respect of the revenue of the estate farmed by him:

(3) any such demand, money, fee, duty, arrear, fine or costs as is mentioned in the following sections of the following Acts passed by the Lieutenant-Governor of Bengal in Council, that is to say:—in Act VIII of 1862, section 9;[a] in Act VI of 1873, section 50;[b] in Act IV of 1875, section 1;[c] in Act V of 1875, section 57;[d] in Act III of 1876, section 42,[e] section 73[f] and section 85;[g] in Act VII of 1876, section 82;[h] in Act VIII of 1876, section 138;[i] in Act VII of 1878, section 36;[j, k]

(4) in the case of a person to whom the collection of tolls has been farmed under the provisions of section 8 of the Canals Act, 1864,[l] or of the sureties of such person—any sum of money due in respect of such farm:

(5) in the case of a person having charge of a ferry subjected to the

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[a] See *supra*, p. 13. [b] See *supra*, p. 207 [c] See *supra*, p. 236.
[d] See *supra*, p. 254. [e] See *supra*, p. 277. [f] See *supra*, p. 283.
[g] See *supra*, p. 286. [h] See *supra*, p. 318. [i] See *supra*, p. 360
[j] See *supra*, p. 375. [k] Certain words of s. 7, cl. (3), repealed by Acts VI of 1889, s. 21, and VII of 1889, s. 2, respectively, have here been omitted. [l] See *supra*, p. 33.

payment of a yearly rent—any arrear of such rent ascertained and certified as provided in Regulation VI of 1819,[a] section 10:

(6) any arrears of revenue or rent payable to the Secretary of State for India in Council from any raiyat, or from any person holding any interest in land, pasturage, forest-rights, fisheries and the like, whether such interest is or is not transferable:

(7) in the case of property which, under the provisions of any law for the time being in force, has been taken under the charge of, or is managed by, the Court of Wards or the Revenue-authorities on behalf of a private individual—any arrears of rent or of other demands recoverable as rent, whether such arrears became due before or after the management devolved upon such Court or such authorities: Provided that this clause shall not apply to any arrears of rent at an enhanced rate, unless such enhanced rate has been agreed to by the person liable to pay the same, or has been confirmed by a competent Court:

(8) any sum payable to a public officer of Government in respect of which the person liable to pay the same has agreed by a written instrument duly registered that it shall be recoverable under the provisions of this Act:

(9) any fee, duty, tax or other demand which by any Act[b] passed hereafter shall be declared to be recoverable under the provisions of this Act;

*the Collector of the district may make a certificate of the unpaid demand.

the Collector of the district may make under his hand, and in form No. 2 in the second schedule annexed to this Act, a certificate of the amount of such arrears so remaining unpaid, and may cause the same to be filed in his office: Provided that no such certificate shall be made in respect of any such demand, the recovery of which is barred by any law of limitation for the time being in force.

Such certificate shall have the same effect as a decree of a Civil Court, as regards the remedies for enforcing the same.

8. (*a*) Subject to the provisions of this Act, every certificate made under the provisions of section 7 shall, as regards the remedies for enforcing the same, and so far only, have the force and effect of a decree of a Civil Court. In the cases other than case (7) mentioned in the said section 7, the Secretary of State for India in Council and in the said case (7) the private individual therein mentioned, or, if such private individual be a minor, lunatic or ward of Court, then such minor, lunatic or ward of Court by his next friend,

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[a] Ben. Reg. VI of 1819 has been repealed by Ben. Act I of 1885, s. 3; see now s. 12 of that Act, *infra*.

[b] See Ben. Act IX of 1879 (as amended by Ben Act III of 1881, s. 11), s. 65A, *supra*, p 449 Ben Act VI of 1880, s. 38, *supra*, p. 504; and Ben. Acts IX of 1880, s. 49, II of 1882, s. 70, and I of 1885, s. 12, *infra*.

shall be deemed to be the decree-holder, and in all the cases mentioned the person therein named as debtor shall be deemed to be the judgment-debtor.

(*b*) Such judgment-debtor may at any time within one year after the service upon him of such notice as is mentioned in section 10 bring a suit in the Civil Court to contest his liability to pay the amount stated in the said certificate, and to have such certificate cancelled: but no such suit shall be entertained unless such judgment-debtor has stated in a petition presented to the Collector under section 12 the ground upon which he claims to have such certificate cancelled, or unless, having omitted to state such ground in such petition as aforesaid, he can satisfy the Civil Court that there was good reason for such omission. If no such suit is instituted within the said period of one year, or if any such suit having been instituted is decided against such judgment debtor, such certificate shall become absolute, and shall have to all intents and purposes the same force and effect as a final decree of a Civil Court:

Judgment-debtor may bring a suit in the Civil Court to contest the certificate. If no such suit is brought within one year, or if brought is decided against the judgment-debtor, certificate to become absolute and have effect of a decree.

Provided that no certificate duly made under the provisions of this Act shall be cancelled by a Civil Court otherwise than on one or more of the following grounds, that is to say:—

(1) that the amount stated in the certificate was actually paid or discharged before the making of such certificate:

(2) in the case of fines imposed, or costs, charges, expenses, damages, duties or fees adjudged by a Collector or a public officer under the provisions of any Regulation or Act for the time being in force—that the proceedings of such Collector or public officer were not in substantial conformity with the provisions of such Regulation or Act, and that in consequence the judgment-debtor under the certificate suffered substantial injury from some error, defect or irregularity in such proceedings:

(3) in cases other than those mentioned in clause (2)—that the amount stated in the certificate was not due by the judgment-debtor under the certificate:

(4) want of jurisdiction.

Nothing in this proviso shall be construed to interfere with the ordinary original jurisdiction of the High Court at Fort William in Bengal, or with the jurisdiction of the Calcutta Court of Small Causes.

9. (*a*) When any arrear of any of the public demands specified in section 7 is unpaid by any person liable to pay such public demand to a public officer other than a Collector, or when any such demand as is specified in clause (7) of the said section is unpaid by any person liable to pay the same to a manager

In case of arrears of public demand payable to officer other than Collector

such officer may give notice to Collector.

appointed by the Court of Wards, such officer or such manager may give to the Collector of the district, in which such person resides, or in which such demand is payable, a notice in writing in form No. 3 in the second schedule annexed to this Act: Provided that no such notice may be given in respect of any such demand the recovery of which is barred by any law of limitation for the time being in force.

Such notice given by a manager to be verified and stamped as a plaint.

(*b*) Every such notice given by a manager shall be verified by such manager in accordance with the provisions of the Code of Civil Procedure[a] as to the verification of plaints, and there shall be payable in respect thereof a court-fee of the same amount as is payable under the Court-fees Act[b] for the time being in force in respect of a plaint for the recovery of a sum of money equal to that stated in such notice. XIV of 1882. VII of 1870.

Collector may on receipt of such notice make a certificate.

(*c*) On receipt of such notice, such Collector, if satisfied that such demand is justly recoverable, may make under his hand, and in the form No. 2 in the second schedule annexed to this Act, a certificate of the amount of such arrears so remaining unpaid, and shall cause the same to be filed in his office.

(*d*) The provisions of section 8 shall apply to every such certificate.

When certificate filed notice to be given to judgment-debtor. Upon service of notice, certificate to bind immoveable property of judgment-debtor. Copy of certificate may be sent to Collector of another district to be filed in his office.

10. When a certificate has been filed in the office of a Collector under the provisions of section 5, or section 7 or section 9, such Collector shall issue to the judgment-debtor a copy of such certificate and a notice in form No. 4 in the second schedule annexed to this Act. From and after the service of such notice such certificate shall bind all immoveable property of such judgment-debtor situate within the jurisdiction of such Collector in the same manner and with like effect as if such immoveable property had been attached under the provisions of section 274 of the Code of Civil Procedure.[c] A copy of such certificate may be transmitted by post to any other Collector for the purpose of being filed in his office, and, as soon as it is so filed, such certificate shall, if the aforesaid notice has been served, bind in like manner all immoveable property of such judgment-debtor situate within the jurisdiction of such last-mentioned Collector. XIV of 1882.

Moveable property of person, against whom certificate has been made, may be attached at any time, if Collector satisfied that

11. If in any case other than the case mentioned in clause (7) of section 7 the Collector is satisfied that any person against whom a certificate has been filed under the provisions of section 5 or section 7 or section 9 is likely to conceal, or remove or dispose of, the whole or any part of his moveable property, and that the realization of the amount of such certificate will in consequence be delayed or obstructed, he may at any time after making such certi-

[a] See Act XIV of 1882, ss. 3 and 52, in General Acts, 1882—84, pp. 32, 49.
[b] See Act VII of 1870, Sch. I, Art. 1, in General Acts, 1867—76, 2nd Ed., p. 157.
[c] See Act XIV of 1882, s. 3, in General Acts, 1882—84, p. 32.

ficate direct an attachment of the whole or any part of the moveable property of such person. Such attachment shall be made in the manner provided in the Code of Civil Procedure[a] for attaching moveable property, and subject to the provisions of section 266 of the same Code. Such property may be sold for the purpose of satisfying such certificate, if no petition of objection is filed under section 12, or if any such petition is filed, then as soon as it has been heard and determined.

XIV of 1882.

such person is likely to conceal, remove or dispose of such property.

12. If any person, who has been served with a notice under section 10, denies his liability to pay the whole or any part of the amount for which such certificate has been made and filed against him, he may at any time within thirty days after service of such notice or, where no such notice has been duly served, within thirty days after the execution of any process for enforcing such certificate, file a petition, denying his liability as aforesaid, before the Collector by whom such certificate has been made. Such petition shall be in, or as nearly as possible in, the form No. 5 in the second schedule annexed to this Act.

Any person served with notice under section 10 may file a petition of objection.

13. Such Collector shall fix a day for hearing any such petition so filed, and upon such day, or any subsequent day to which such hearing may be adjourned, shall determine whether such petitioner is liable for the whole or any part of the amount for which such certificate was made, and may set aside or modify or vary the certificate accordingly. Every such Collector shall, for the purpose of hearing any such petition and determining as aforesaid, exercise all or any of the powers of a Civil Court in respect of summoning, causing the attendance of and examining witnesses, and in respect of causing the production of documents; and the provisions of the Code of Civil Procedure[a] applicable to these matters shall apply to a Collector exercising these powers.

XIV of 1882.

Day to be fixed for hearing such petition. Collector to determine the liability of the petitioner. Certain provisions of the Code of Civil Procedure to apply to the inquiry.

14. The Collector shall have full power to direct that the costs of such petition and of the hearing thereof shall be paid by the petitioner, and, in any case in which a Collector directs the payment of such costs by any such petitioner, the amount thereof shall, if such petitioner be the judgment-debtor, be added to the amount entered in the certificate, and shall be recoverable as if the same had been originally entered therein.

Collector may direct cost of such petition to be paid by the petitioner. Such costs how realized.

15. The Collector of a district may refer to any Deputy Collector or Assistant Commissioner or Extra Assistant Commissioner subordinate to him any such petition as is mentioned in section 12, and such Deputy Collector or Assistant Commissioner or Extra Assistant Commissioner shall hear and determine such petition accordingly. The provisions of sections 13 and 14 shall be applicable to any such Deputy Collector or Assistant Commissioner or Extra Assistant Commissioner to whom any such petition has been so referred.

Collector may refer petition for hearing to Deputy Collector, Assistant Commissioner, &c., who shall have the same powers to hear it as the Collector.

[a] See Act XIV of 1882, s. 3, in General Acts, 1882—84, p. 32.

Appeal from Deputy Collector, Assistant Commissioner, &c., to Collector, and from Collector to Commissioner. Stay of execution.

16. An appeal from any order of a Deputy Collector or Assistant Commissioner or Extra Assistant Commissioner may be preferred to the Collector within fifteen days, and an appeal from any original order of a Collector may be preferred to the Commissioner within thirty days after the making of such order respectively. Pending the decision of such appeal, execution may be stayed, if the appellate authority so direct, but not otherwise.

Power of revision.

17. There shall no appeal, as of right, lie from any order of a Collector passed on appeal from an order of a Deputy Collector or Assistant Commissioner or Extra Assistant Commissioner; but the Commissioner may, in any case in which he thinks fit, revise any order passed by a Collector or Deputy Collector or Assistant Commissioner or Extra Assistant Commissioner.

Certificate may be enforced after one month from notice, or when petition of objection disposed of.

18. Every certificate made under the provisions of section 5 or section 7 or section 9 may be enforced and executed, upon the expiry of one month after service of the notice mentioned in section 10, or when any such petition as is mentioned in section 12 has been filed, then as soon as such petition has been heard and determined.

Certificate may be enforced under the provisions of the Code of Civil Procedure as a decree for money.

19. Such certificate may be so enforced and executed by all or any of the ways and means mentioned and provided in and by the Code of Civil Procedure* for the enforcement and execution of decrees for money, and all the practice and procedure provided by the said Code of Civil Procedure— XIV of 1882.

> in respect of sales in execution of decrees; in respect of raising the amount of a decree otherwise than by sale of immoveable property under the provisions of sections 305 and 320 to 324 of the said Code; in respect of arrests in execution of decrees for money; in respect of the execution of decrees by imprisonment; in respect of insolvent judgment-debtors; in respect of claims to attached property; in respect of resistance to execution; and in respect of the execution of decrees out of the jurisdiction of the Courts by which they were passed,

shall apply to every execution issued to enforce such certificate and realize the amount recoverable thereunder, save that all the duties, powers and authorities by the said Code imposed or conferred on the Court shall be exercised by the Collector in whose office any such certificate or any copy thereof transmitted for execution under the provisions of section 223 of the said Code has been filed. Subject to the control of the Collector and save and except in respect of the provisions relating to insolvent judgment-debtors, any of the said duties, powers and authorities may be exercised by any Deputy Collector, Assistant Commissioner or Extra Assistant Commissioner subordinate to such Collector.

* See Act XIV of 1882, s. 3, in General Acts, 1882—84, p. 32.

20. If any immoveable property is sold in execution of a certificate under the provisions of section 18, and if such certificate is subsequently set aside by a competent Court, such Court may set aside such sale of such immoveable property, and, in any case in which such sale is so set aside, such Court shall direct that the amount of the purchase-money be refunded to the purchaser with or without interest, as such Court thinks fit:

Sale of immoveable property may be set aside if certificate is set aside by a competent Court.

Provided that no such sale shall be so set aside unless such purchaser has been made or added as a party to the suit brought to set aside such certificate.

Proviso.

21. Every Collector shall cause to be kept in his office a register in such form as may from time to time be prescribed by the Board of Revenue and shall cause to be entered in such register the particulars of every certificate made under this Act, which, or a copy of which, has been filed in his office. Such register shall be open during office hours to the inspection of any one desiring to inspect the same, and a fee of eight annas, or such fee not exceeding eight annas as the Board of Revenue may prescribe, shall be chargeable for such inspection.

Register of certificates to be kept in Collector's office and to be open to inspection on payment of fee of eight annas.

22. (*a*) Payment of the amount due under a certificate may be made by instalments, if the Collector who made such certificate so direct. The payment of any instalment shall be entered in the register mentioned in section 21.

Payment of sum due under a certificate may be made by instalments.

(*b*) When the total amount due under a certificate has been paid and satisfied, the Collector in whose office such certificate was originally filed shall enter satisfaction upon such certificate under his hand and signature; and shall cause the same to be entered in the register mentioned in section 21.

When total amount satisfied, Collector to enter satisfaction on certificate and in register;

(*c*) When a copy of such certificate has been transmitted to another Collector, or when such certificate has been made under the provisions of section 9 upon notice from a public officer other than a Collector or from a manager appointed by the Court of Wards, such satisfaction shall be communicated to such other Collector or to such officer or to such manager.

and to communicate it to other Collector in whose office a copy of such certificate has been filed.

(*d*) When a sum has been levied or received by a Collector in respect of a certificate a copy of which has been transmitted to him and filed in his office, such Collector shall send such sum to the office in which such certificate was originally made.

Sum levied by Collector to whom copy of certificate was sent, to be transmitted to Collector who made certificate.

23. Every Collector, Deputy Collector, Assistant Commissioner and Extra Assistant Commissioner and every such public officer as is mentioned in section 9 shall, in the discharge of his functions under this Act, be deemed to

Collector, &c., to be deemed to be acting judicially in the discharge

of his duties under this Act.

be a person acting judicially within the meaning of Act XVIII of 1850[a] passed by the Governor General in Council.

Collectors, &c., to be subject to the supervision and control of Commissioners and Board.

24. All Collectors, Deputy Collectors, Assistant Commissioners and Extra Assistant Commissioners shall, in the performance of their duties under this Act, be subject to the general supervision and control of the Commissioners of Divisions and the Board of Revenue.

THE FIRST SCHEDULE.

(*See section 3.*)

Number and year.	Subject of Act.	Extent of repeal.
	Acts passed by the Lieutenant-Governor of Bengal in Council.	
VIII of 1862[b] .	An Act to improve the system of zamindári dáks in the Provinces subject to the Government of Bengal.	In section 9, the words from and including "which said double amount" to and including "making default".
VII of 1868[c] .	An Act to make further provision for the Recovery of Arrears of Land-revenue and Public Demands recoverable as Arrears of Land-revenue.	In section 1, from and including the words "The word 'Demand' means" to the end of the section. In section 2, the words "not being a sale made under, and by virtue of, any execution issued upon a certificate made as hereinafter is provided." In section 6, the words "or persons liable to any demands," "or persons," "or any demands," "or persons," "or to any demands," "or persons," and "or of such demands." Sections 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28.
VI of 1873[d] .	An Act to amend the law relating to Embankments and Water-courses.	Section 50, from and including the words "under the provisions" to the end of the section.
I of 1875 .	An Act for the Realization of Arrears in Government Estates.	The whole Act.
IV of 1875[e] .	An Act to provide for the summary realization of sums due on account of loans made by the Government during the late famine operations.	Section 1, from and including the words "within the meaning" to the end of the section.

[a] See General Acts, 1834—66, 2nd Ed., p. 60.
[b] See *supra*, p. 12. [c] See *supra*, p. 116. [d] See *supra*, p. 191. [e] See *supra*, p. 236.

Number and year.	Subject of Act.	Extent of repeal.
	Acts passed by the Lieutenant-Governor of Bengal in Council—(contd.)	
V of 1875[a] .	An Act to provide for the Survey and Demarcation of land.	In section 57, from and including the words "under section 2" to the end of the section.
III of 1876[b] .	An Act to provide for Irrigation in the Provinces subject to the Lieutenant-Governor of Bengal.	In section 42, from and including the words "under the provisions" to the end of the section. In section 73, from and including the words "under the provisions" to the end of the section. In section 85, from and including the words "under the provisions" to the end of the section.
VII of 1876[c] .	An Act to provide for the Registration of Revenue-paying and Revenue-free lands, and of the proprietors and managers thereof.	In section 82, from and including the words "under section" to the end of the section.
VIII of 1876[d] .	An Act to make better provision for the Partition of Estates.	In section 138, from and including the words "under section" to the end of the section.
VII of 1878[e] .	An Act to consolidate and amend the law relating to the Excise-revenue in the Presidency of Fort William in Bengal.	In section 36, from and including the words "or by the process" to the end of the section.
IX of 1879[f] .	An Act to amend the law relating to the Court of Wards.	Section 63.
	Regulations of the Bengal Code.	
III of 1794[g] .	A Regulation for exempting proprietors of land (with certain exceptions) from being confined for arrears of revenue; and for prescribing the process by which tahsildárs are to demand payment of arrears; and for enabling the Collectors to recover from Native officers employed under them public money or papers which they may embezzle or retain, &c.	Section 12. Sections 16, 17, 18, 19 and 20, so far as they relate to the recovery of money belonging to Government.

[a] See *supra*, p. 237. [b] See *supra*, p. 265. [c] See *supra*, p. 292. [d] See *supra*, p. 320.
[e] See *supra*, p. 366. [f] See *supra*, p. 430. [g] See Vol. I, p. 61.

THE SECOND SCHEDULE.

FORM No. 1 (*See section 6*).

Certificate of Arrears of Revenue filed in the Office of the Collector of the District of (name of District).

No. of Certificate.	Name of Debtor.	Address of Debtor.	Amount of Arrears of Revenue for which this Certificate is made, and period for which such Arrears are due.	Estate or tenure for which Arrears of Revenue due.

I hereby certify that the above-mentioned sum of Rs. is due to the Secretary of State for India in Council from the above-named

A. B.,

Dated this day of 18 . *Collector of*

FORM No. 2 (*See sections 7 and 9*).

Certificate of Arrears of Public Demands filed in the Office of the Collector of the District of (name of District).

No. of Certificate.	Name of Debtor.	Address of Debtor.	Amount of the Public Demand for which this Certificate is made.	Particulars of Public Demand for which this Certificate is made: and Public Officer [*or* Manager, *and of* what estate] to whom due.

I hereby certify that the above-mentioned sum of Rs. is due to the Secretary of State for India in Council [*or* to *A. B.*, a Ward of Court, *or* a Minor *or* a Lunatic, by his next friend *C. D.*] from the above-named

A. B.,

Dated this *day of* 18 . *Collector of*

FORM No. 3 (*See section 9*).

NOTICE OF DEMAND.

To the Collector of the District of .

Name of Debtor.	Address of Debtor.	Amount of Public Demand for which this Notice is given.	Nature of the Public Demand for which this Notice is given.

The above sum of Rs. is due from the said in respect of

Certified this day of .

A. B.

FORM No. 4 (*See section 10*).

NOTICE.

To (*Insert name of Judgment-debtor*).

You are hereby informed that a certificate for Rs. due from you on account of has been this day made by me against you under the provisions of section of Act VII of 1880 passed by the Lieutenant-Governor of Bengal in Council, and that such certificate has been filed in this office. If you deny your liability to pay the said sum of Rs. , you may within thirty days show cause why such certificate should not be executed. If you fail to show cause within thirty days, or do not show sufficient cause, such certificate will be executed in the same manner as if it were a decree of a Civil Court for the said sum of Rs. unless you pay the amount into this office. Until such amount is paid, you are hereby prohibited from alienating your immoveable property or any part of it by sale, gift, mortgage or otherwise.

A copy of the certificate above-mentioned is hereto annexed.

A. B.,

Dated this *day of* 18 . *Collector of*

FORM No. 5 (*See section 12*).

To

The Collector of the District of .

The humble petition of (*name of petitioner*) of (*address*).

SHEWETH—

That a certificate No. for the sum of Rs. has been filed against your petitioner in your office under the provisions of section of Act VII of 1880 passed by the Lieutenant-Governor of Bengal in Council.

That your petitioner respectfully denies his liability to pay the said sum of Rs. (or, where the liability to pay part is admitted, denies his liability to pay more than Rs.), and this for the following reasons:—

That the facts above stated are true to the best of your petitioner's knowledge and belief.

Your petitioner therefore respectfully prays that the said certificate may be set aside (*or* modified *or* varied).

ACT No. VIII OF 1880.

Received the Lieutenant-Governor's assent on the 10th September, 1880, and the Governor General's assent on the 28th idem.

An Act to provide against the spreading of certain Contagious and Infectious Diseases among Horses.

Preamble.

WHEREAS it is expedient to provide against the spreading of certain contagious and infectious diseases among horses; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bengal Contagious Diseases (Animals) Act, 1880:

Extent.

It applies to the Town of Calcutta as defined by Bengal Act IV of 1866,[a] and to the Suburbs of the Town of Calcutta as defined by the notification of the 10th September, 1877, and published in the Calcutta Gazette for the 26th September, 1877;

Commencement.

and it shall come into force from the date[b] on which it may be published in the Calcutta Gazette with the assent of the Governor General.

Interpretation-clause. "Disease."

2. In this Act—

"disease" means glanders, farcy or any dangerous epidemic disease among horses which the Lieutenant-Governor may from time to time, by an order published in the Calcutta Gazette, declare to be a disease for the purposes of this Act:

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[a] See Ben. Act IV of 1866, s. 3, *supra*, p. 61.

[b] *i.e.*, the 13th October, 1880.

"horse" includes ponies, asses, mules and jennets: "Horse":

"inspector of police" includes any Police-officer not under the rank of an inspector of police: "Inspector of Police":

"section" means a section of this Act: "Section":

"veterinary surgeon" means a member of the Royal College of Veterinary surgeons, or any veterinary practitioner appointed to be a veterinary surgeon for the purposes of this Act by the Lieutenant-Governor. "Veterinary Surgeon."

3. Every person having in his possession or under his charge any horse which he knows or has reason to believe to be affected with disease shall as far as practicable keep such horse separate from horses not so affected, and shall send intimation of the fact to the officer in charge of the nearest police-station within twenty-four hours from his knowledge of the same; and in default of so doing he shall be liable to a fine not exceeding five hundred rupees. Owner of diseased horses to give information to the police. Penalty.

4. On receiving this intimation the officer in charge of the police-station shall have the horse examined by a veterinary surgeon, and, if the surgeon certifies that the animal is affected with disease, shall cause it to be forwarded to the hospital established under section 5, or, if no such hospital has been established, to be slaughtered forthwith. Police-officer to proceed on information.

An inspector of police may exercise the powers of an officer in charge of a station under this section.

5. The Lieutenant-Governor may from time to time make, and, when made, revoke, add to and alter rules in relation to the following matters or any of them:— Government may make rules.

(1) for establishing and maintaining a hospital for the examination and detention of horses affected with disease;

(2) for prescribing and realizing from the owner of any horse detained in such hospital a reasonable sum to meet the expenses connected with the conveyance, detention and disposal of the animal;

(3) for determining a proper place for the burial of horses affected with disease;

(4) for generally carrying out the provisions of this Act.

Notice of the making of any such rules shall be published in the Calcutta Gazette.

6. Whenever such hospital is established in Calcutta, the expenses of the same shall, so far as may be necessary, be a first charge on the surplus of the fees levied on the registration of hackney-carriages under Bengal Act V of 1866.[a] Expenses of hospital how to be defrayed.

[a] See Ben. Act V of 1866, s. 51, *supra*, p. 93.

Power of entry of inspector police.

7. An inspector of police may at any time enter any place where he has reasonable grounds for supposing that any horse affected with disease is or has lately been, and may cause such horse, if found, to be dealt with in the manner laid down in section 4, and, whether such horse be found in the place or not, may, upon the certificate of a veterinary surgeon, cause all articles that have been in contact with or used about any such horse to be burnt or otherwise destroyed.

The inspector shall, if required, state in writing the grounds on which he has so entered.

If any person refuses admission to such inspector, he shall be liable to a fine not exceeding five hundred rupees.

Who may take with him other officers and a veterinary surgeon.

8. An inspector of police entering any premises in accordance with the last preceding section may take with him one or more police-officers and any veterinary surgeon.

Owners of infected premises bound to cleanse them.

9. Every owner or person in charge of any place as aforesaid shall be bound, if required by an inspector of police acting upon the certificate of a veterinary surgeon, to thoroughly cleanse and disinfect the same, and, on his failing to do so within twenty-four hours from the requisition, the inspector of police shall cause the said place to be thoroughly cleansed and disinfected;

Expenses how recoverable.

and the expenses of so doing, if not paid by the owner or person in charge within seven days from the incurring of the same, may, with all costs, be recovered as a fine[a] adjudged by any Magistrate exercising jurisdiction in the place.

Burial of diseased horses.

10. Every person having in his possession or under his charge any horse that has died of glanders, or has been slaughtered in consequence of being affected with glanders, shall cause the same to be buried as soon as possible in its skin, which shall be slashed before burial, and to be covered with a sufficient quantity of quicklime or other disinfectant, or to be disposed of in such other manner as the Lieutenant-Governor may direct, and in default of so doing shall be liable to a fine not exceeding two hundred rupees.

Penalty for allowing diseased horses in the streets.

11. Whoever voluntarily or negligently causes or permits any horse affected with disease to be worked, driven or led on any public road or street, except for the purpose of being taken to a veterinary surgeon or hospital for examination, or to be slaughtered in accordance with this Act, or voluntarily or negligently causes or permits any such horse to be turned loose or to stray or escape into any place whence such horse can escape into any public road or street or any private premises, shall be punished with imprisonment for a term

[a] See Ben. Act V of 1867, s. 4, *supra*, p. 112.

which may extend to three months, or with a fine which may extend to five hundred rupees, or with both.

Penalty for vexatious entries, searches and seizures.

12. An inspector of police, who vexatiously or frivolously enters or searches any place, seizes or detains any horse on the pretence that it is affected with disease,

shall be punished with imprisonment for a term which may extend to three months, or with a fine which may extend to five hundred rupees, or with both.

No prosecution under this section shall be instituted after the expiry of two months from the date on which the offence has been committed.

Reward to police-officers.

13. Whenever an offender is sentenced to pay a fine under this Act, the convicting Magistrate may direct that any portion, not exceeding one-half, shall, if realized, be paid to the police-officer on whose information the offender has been convicted.

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14. The Lieutenant-Governor may, by an order published in the Calcutta Gazette, extend this Act to any town or place.*

THE CESS ACT, 1880.

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Received the Lieutenant-Governor's assent on the 10th September, 1880, and the Governor General's assent on the 1st October, 1880.

An Act to amend and consolidate the Law relating to Rating for the Construction, Charges and Maintenance of District Communications and other Works of Public Utility, and of Provincial Public Works.

WHEREAS it is expedient to amend and consolidate the law relating to rating for the construction, charges and maintenance of district roads and other Preamble

[a] This Act has been declared in force, under s. 3 of the Scheduled Districts Act, 1874, in the Districts of Hazáribágh, Lohardugga and Manbhoom and Pergunnah Dhalbhoom—see Vol. I, p. 679.

means of communication, and of provincial public works, within the territories administered by the Lieutenant-Governor of Bengal, and to the levy of a road cess and a public works cess on immoveable property situate therein, and to the constitution of local committees for the management of the proceeds of the said road cess, and also to provide for the construction and maintenance of other works of public utility out of the proceeds of the said road cess; It is hereby enacted as follows :—

PRELIMINARY.

Short title and commencement.

1. This Act may be called the Cess Act, 1880;

and it shall come into force from the date[a] on which it may be published in the Calcutta Gazette with the assent of the Governor General.

Extent.

2. This Act shall take effect at once in every district and part of a district[b] in which Bengal Act X of 1871[c] (*an Act to provide for local rating for the construction and maintenance of roads and other means of communication*) and Bengal Act II of 1877[c] (*an Act to provide for the levy of a cess for the construction, charges and maintenance of provincial public works*) may be in force on the date of the commencement of this Act.

The Lieutenant-Governor may, by notification in the Calcutta Gazette, extend its provisions to any other district or part of a district[b] situate in the territories for the time being administered by him, and this Act shall take effect accordingly therein from the date specified in such notification :

Proviso.

Provided that nothing herein contained shall be deemed to affect any immoveable property within the limits of the ordinary original jurisdiction of the High Court of Judicature at Fort William in Bengal, or within the limits of any first or second class municipality under the Bengal Municipal Act, 1884.[d] Ben III of 1884.

Power to exempt districts from operation of Act.

The Lieutenant-Governor may, by notification in the Calcutta Gazette, exempt any district or part of a district, or any estate or tenure[b], from the operation of this Act, or from the operation of so much thereof as relates to the road cess, or as relates to the public works cess, and may at any time, by a similar notification, revoke such exemption.

Repeal of District Road Cess Act, 1871, and Provincial Public Works Act, 1877.

3. The said Bengal Act X of 1871 and the said Bengal Act II of 1877 are hereby repealed; but this repeal shall not affect the past operation of such Acts, or anything duly done or suffered, or any right, privilege, obligation or liability acquired, accrued or incurred thereunder;

and all rules, orders, appointments and valuations in force at the com-

[a] *i.e.*, the 13th October, 1880.

[b] For lists of districts in which Ben. Act IX of 1880 is in force, and list of estates, &c., exempted from the operation of the Act, see Appendix.

[c] Ben. Acts X of 1871 and II of 1877 have been repealed by this Act—see s. 3, *infra*.

[d] See Ben. Act III of 1884, s. 2, *infra*, p. 668.

mencement of this Act which were made under the said Acts shall, so far as they are consistent with this Act, be deemed to have been made under this Act;

and all cesses which were imposed under the said Acts shall be deemed to have been imposed under this Act, and every sum due to the Collector in respect of arrears of cess, of expenses incurred, of fees or costs payable, of notices served or of fines imposed under either of the said Acts shall be deemed to be due on such accounts under this Act;

and all cesses so imposed and every sum so due may be levied as herein provided.

Interpretation-clause.

4. In this Act, unless there be something repugnant in the subject or context,—

"Annual value of land," &c.:

"annual value of any land, estate or tenure" means the total revenue or rent which is payable, or, if no revenue or rent is actually payable, would on a reasonable assessment be payable, during the year by all the cultivating raiyats of such land, estate or tenure, or by other persons in the actual use and occupation thereof:

"Commissioner":

"Commissioner" means the Commissioner of the division:

"Cultivating raiyat":

"cultivating raiyat" means a person cultivating land and paying rent therefor not exceeding one hundred rupees per annum:

Explanation.—When rent is payable in kind, the money value thereof shall, for the purposes of this Act, be taken to be the annual value of the landlord's share of the crop calculated on an average of the three years next preceding any valuation or re-valuation under this Act:

"District":

"district" means the local area to which a Collector is appointed, and no lands situate beyond the limits of such local area shall be deemed to form part of a district by reason of their forming part of an estate paying revenue to the Collector thereof:

"Estate":

"estate" means—

(1) land included under one entry in the general registers of revenue-paying lands and of revenue-free lands prepared and maintained by the Collector of a district under the Land Registration Act, 1876,[a] or any similar law for the time being in force:

Ben. VII of 1876.

(2) any land other than the holding of a cultivating raiyat, the revenue or rent of which may be payable directly to the Collector or any person specially appointed by him to collect the same:

(3) any land acquired under any rules issued by, or under authority of, Government for the sale, grant, lease or clearance of waste-lands:

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[a] See *supra*, p. 292.

"Holder of an estate or tenure":

"holder of an estate or tenure" means all or any of the holders thereof, and, where two or more persons are jointly holders thereof, they shall be jointly and severally liable under this Act:

"Holding":

"holding" means the land held by a cultivating raiyat:

"Immoveable property":

"immoveable property" includes lands and all benefits to arise out of land and things attached to the earth, or permanently fastened to anything which is attached to the earth, but does not include crops of any kind, or houses, shops or other buildings:

"Land":

"land" means land which is cultivated, uncultivated or covered with water, and does not include houses or buildings:

"Part", "Chapter" and "section":

"Part", "Chapter" and "section" mean respectively a Part, Chapter and section of this Act:

"Schedule":

"schedule" means a schedule to this Act annexed, and every such schedule shall be read as part of this Act:

"Tenure":

"tenure" includes every interest in land, whether rent-paying or not, save and except an estate as above defined, and save and except the interest of a cultivating raiyat:

"The Collector":

"the Collector" includes any person specially invested with the powers of a Collector for the purposes of this Act, and means—

i.—when used in reference to revenue-paying estates and lands comprised therein, to all proceedings connected therewith and to the assessment and levy of cesses in respect thereof,

the Collector or other similar officer on whose revenue-roll such estates are borne;

ii.—when used in reference to revenue-free estates and lands comprised therein, to all proceedings connected therewith and to the assessment and levy of cesses in respect thereof,

the Collector or other similar officer on whose general register of revenue-free lands such estates are borne:

"The Collector of the district".

"the Collector of the district" includes any person specially invested with the powers of a Collector for the purposes of this Act, and means the officer in charge of the revenue-administration of a district:

"The committee":

[a] "the committee" means the district road committee of any district:

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[a] In districts in which the Bengal Local-self-government Act of 1885 is in force the following has been substituted for the definition of "the committee" (see Ben. Act III of 1885, s. 2 and Sch II, *infra*):—

"'District board' means the board constituted under the provisions of the Bengal Local Self-government Act of 1885:

'District fund' means the fund formed under section 52 of the Bengal Local Self-government Act of 1885."

"year" means the cess year as determined by the Lieutenant-Governor under section 11. "Year".

PART I.

CHAPTER I.

IMPOSITION AND APPLICATION OF THE CESSES.

5. From and after the commencement of this Act in any district or part of a district, all immoveable property situate therein, except as otherwise in sections 2 and 8 provided, shall be liable to the payment of a road cess and a public works cess. All immoveable property to be liable to a road cess and public works cess.

6. The road cess and the public works cess shall be assessed on the annual value of lands and on the annual net profits from mines, quarries, tramways, railways and other immoveable property ascertained respectively as in this Act prescribed; Cesses how to be assessed.

and the rates at which such cesses respectively shall be levied for each year shall be determined for such year in the manner in this Act prescribed:

Provided that the rate at which each such cess shall be levied for any one year shall not exceed the rate of one-half anna on each rupee of such annual value and annual net profits respectively.

7. Nothing in this Act contained shall be deemed to require the payment by the Lieutenant-Governor of Bengal, from the public revenues, of any sum as road cess in excess of such sums as may have been paid as such cess to the Collector by persons liable to pay the same. Public revenues not liable for more road cess than has been paid to Collector by persons liable.

8. No railway or tramway the property of the Government of India, and no railway or tramway of which the dividend is guaranteed by Her Majesty's Secretary of State for India in Council, or by the Governor General of India in Council, or by the Lieutenant-Governor of Bengal, shall be liable to road cess or public works cess under the provisions of this Act without the previous consent of the Governor General of India in Council. Government and guaranteed railways not liable to the cesses without consent of Governor General in Council.

9. The proceeds of the road cess in each district shall be paid into the district road fund of such district, as hereinafter provided, [a]and, together with other assets of such fund, shall be applied to the purposes mentioned in section [b]109[a]. Application of proceeds of road cess.

[a-a] These words and figures in s. 9 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch. II, *infra*.

[b] These figures in s. 9 have been substituted for the original figures by Ben. Act II of 1881, s. 1—see Ben. Act II of 1881, s. 1, *infra*.

Application of proceeds of public works cess.

10. The proceeds of the public works cess [a]and all interest paid thereon[a] shall be paid into the public treasury, and shall be applied (1) to the payment of such contributions to the district road fund as the Lieutenant-Governor may think proper in consideration of the said cess being assessed and collected jointly with the road cess by establishments paid from the district road fund; and (2) to the construction charges and maintenance of provincial public works, and to the payment of interest on capital which may have been expended, or which may hereafter be expended, on such works in such manner as the Lieutenant-Governor may direct.

Power to fix cess year.

11. The Lieutenant-Governor shall, by an order published in the Calcutta Gazette, fix the date from which the cesses leviable under this Act in any district or part of a district shall take effect therein, and may fix and from time to time alter the date from which the cess year shall run in any district or part thereof.

PART II.

MODE OF ASSESSMENT.

CHAPTER II.

VALUATION OF LANDS.

Lieutenant-Governor may order valuation,

12. Upon the commencement of this Act in any district or part of a district the Lieutenant-Governor may order that a valuation shall be made of such district or part of a district;

and re-valuation.

and from time to time after the expiration of the term of five years from the beginning of the year in which the levy of the cesses took effect in accordance with any such valuation, or with any re-valuation as hereafter provided in this section, or at any time within twelve months previous to the expiration of such term,

the Lieutenant-Governor may, if he think fit, order that a re-valuation shall be made of any such district or part of a district, and such re-valuation shall take effect from the beginning of such year as the Lieutenant-Governor may direct.

After five years holder of estate or

13. Whenever the term of five years shall have expired from the beginning of the year in which the levy of the cesses took effect in any estate or

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[a] These words in s. 10 have been inserted by Ben. Act II of 1881, s. 2—see Ben. Act II of 1881, s. 2, *infra*

tenure in accordance with any valuation [a]or re-valuation[a] under this Act or Bengal Act X of 1871,[b] the holder of any such estate or tenure may apply to the Collector to re-value his estate or tenure, and for such purpose shall lodge in the office of the Collector returns in the form in Schedule A contained; and thereupon the Collector shall proceed to re-value such estate or tenure, and, if he make any alteration in the valuation of any such tenure, shall give notice of such alteration to the holder of the estate or superior tenure in which such tenure is included, and shall alter the valuation of such estate or superior tenure accordingly:

tenure may apply to Collector for re-valuation.

Provided that no re-valuation or reduction of the amount of cesses previously payable in respect of any estate or tenure, in consequence of a re-valuation under this section, shall take effect until the beginning of the year commencing next after such re-valuation, unless the application for re-valuation shall have been made and the necessary returns lodged in the Collector's office within three months after the beginning of a year, in which case such re-valuation and reduction, if any, shall take effect from the commencement of such year.

14. Whenever the Lieutenant-Governor has ordered that a valuation or a re-valuation of any district or part of a district shall be made for the purposes of this Act, the Collector of the district shall cause a proclamation to be issued requiring every holder of an estate or tenure which is liable to pay an annual amount of revenue or an annual amount of rent exceeding one hundred rupees, and every holder of a revenue-free estate or rent-free tenure the gross annual rental of which exceeds one hundred rupees, severally to lodge at the office of such Collector within one month a return of all lands comprised in his estate or tenure in the form in Schedule A contained, giving the particulars in such form set forth.

Proclamation to make return of lands to be issued.

The Collector of the district shall cause such proclamation to be published by affixing a copy thereof in some conspicuous place in the office of such Collector, in every Civil Court, in every police-station, and in the office of every Subdivisional Officer within the district, and in any other manner which the Lieutenant-Governor may from time to time direct.

Publication of proclamation.

15. At any time at which the Lieutenant-Governor might order a re-valuation of a district or part of a district to be made as provided by section 12, he may, if he think fit, instead of so ordering, make an order that particular estates or tenures only in such district or part of a district shall be re-valued.

Re-valuation may be of particular estates or tenures only.

[a-a] These words in s. 13 have been inserted by Ben. Act II of 1881, s. 3—see Ben. Act II of 1881, s. 3, *infra*.

[b] Ben. Act X of 1871 has been repealed by this Act—see s. 3, *supra*, p. 540.

Notice to lodge returns.

16. Whenever any proclamation has been published, as mentioned in section 14, in any district, and whenever the Lieutenant-Governor has made an order, under the last preceding section, that a re-valuation of particular estates and tenures only shall be made, the Collector shall cause a notice to be served in respect of every estate and tenure which is to be valued or re-valued, and in respect of which no return shall have been lodged in accordance with the requirement of such proclamation, requiring every holder of such estate or tenure severally to lodge at the office of the Collector the return mentioned in section 14; and shall also cause a similar notice to be served in respect of every tenure included in any such estate or tenure which may have been named in any return lodged in pursuance of the provisions of this Act, or of Bengal Act X of 1871,[a] either for the purposes of the valuation or re-valuation then contemplated, or for the purposes of any previous valuation or re-valuation, or of which the existence may in any other way have come to his knowledge.

Form of notice and time for lodging returns

17. The notice mentioned in the last preceding section shall be in the form No. I in Schedule B contained, or in the form No. II in the said schedule contained, as the case may be, and shall require every holder of the estate or tenure severally to lodge the return within the time specified below, namely :—

In the case of Revenue-paying Estates and Rent-paying Tenures.

If the return relate to an estate or tenure which is liable to the payment of annual revenue or of rent not exceeding Rs. 500, or to any share or interest in such estate or tenure.	Within six weeks of the service of the notice.
If the return relate to any other estate or tenure, or to any share or interest therein.	Within three months of the service of the notice.

In the case of Revenue-free Estates and Rent-free Tenures.

If the return relate to any estate or tenure of which the gross annual rental does not exceed Rs. 500, or to any share or interest in such estate or tenure.	Within six weeks of the service of the notice.
If the return relate to any other estate or tenure, or to any share or interest therein.	Within three months of the service of the notice.

The Collector may in his discretion extend the time allowed for lodging any such return.

Penalty for omitting to make return.

18. All holders of estates or tenures in respect of which such notice has been served who shall, without sufficient cause being shown to the satisfaction of the Collector, refuse or omit to lodge the required return in the office of

[a] Ben Act X of 1871 has been repealed by this Act—see s. 3, *supra*, p 540.

such Collector within the time allowed by such notice in respect of the estate or tenure which they hold, or within any extended time which may have been allowed by the Collector for lodging such return, shall be severally liable to a fine which may extend to fifty rupees for every day after the expiration of such time or extended time until such return is furnished, or until the value of the lands comprised in their respective estates and tenures shall have been otherwise ascertained and determined by the Collector as hereinafter provided.

The amount of such fine accruing due from time to time may be levied by the Collector as provided in section 98 or 99, and the fact of an appeal against such fine being pending shall not avail to prevent the levy of any such fine pending the disposal of the appeal, unless the Commissioner shall otherwise direct.

Whenever the amount levied in respect of any such fine exceeds five hundred rupees, the Collector shall report the case specially to the Commissioner; and no further levy for such default shall be made otherwise than by authority of the Commissioner.

No rent to be recovered till return is made.

19. From and after the expiry of the time allowed by the notice, or of any extended time under the provisions of section 17, every holder of an estate or tenure in respect of which such notice has been served shall be precluded from suing for or recovering rent for any land or tenure situate in any estate or tenure in respect of which no return has been lodged as aforesaid.

The Collector may send a list to the Civil Court of all such holders so making default in lodging returns as aforesaid, and such Court shall take judicial notice of the same.

Whenever the required return is lodged in respect of any estate or tenure, or whenever the valuation of any such estate or tenure has been otherwise completed, the disability imposed on the holder thereof by this section shall cease; and, if such estate or tenure shall have been included in any list as aforesaid, the Collector shall forthwith give notice to the Civil Court of the cessation of such disability.

No rent to be recovered for land, &c., not mentioned in return.

20. Every holder of an estate or tenure in respect of which a return has been made as required by this Chapter shall be precluded from suing for or recovering—

(*a*) any rent whatsoever for any land, holding or tenure forming part of the estate or tenure to which such return relates, but which has not been mentioned in such return, unless it be proved that the holding or tenure for the rent of which the rent is claimed was created subsequently to the lodging of such return;

(*b*) rent at any higher rate than is mentioned in such return for any land, holding or tenure included in such return, unless it be proved that the rent of such land or tenure has been lawfully enhanced subsequently to the lodging of such return:

Proviso.

Provided that the Collector may at his discretion, at any time within six months from the presentation of any return made under this Part, receive a petition correcting any such return;

and on the acceptance of such petition may make such correction in the valuation of the estate or tenure as may be required;

and, as soon as the person in respect of whose estate or tenure the return and valuation have been so corrected shall have paid in all sums due by him as road cess and public works cess in accordance with such corrected valuation, and not otherwise, such person may recover such rent as may be due to him on any tenure or land included in the return of such estate or tenure at any rate not being in excess of the rate shown in the corrected return as payable in respect of such tenure or land.

Such notices as the Collector may direct shall be served upon the parties affected by such petition at the expense of the person lodging the return as aforesaid.

If returns not furnished, Collector to make valuation.

21. If no return shall have been lodged in respect of any lands for which notice under section 16 has been issued, the Collector may, after the expiration of the time allowed by the notice, or of such extended time as is mentioned in section 17, ascertain and fix, by such ways and means as to him shall seem expedient, the annual value of any estate, tenure or lands mentioned in such notice; and all expenses incurred in making such valuation may be recovered with all costs of recovery thereof as provided in sections 98 and 99.

After conviction of making false returns, Collector may make valuation.

22. Whenever the maker of any return under this Act has been convicted on a prosecution under section 94 of making a false return relating to any lands, the Collector may, by such ways and means as to him shall seem expedient, ascertain and fix the annual value of such lands;

and the expense of such valuation may be recovered from the maker of such return as provided in sections 98 and 99.

In certain cases of incorrect returns, Collector to make valuation whether prosecution be instituted or not.

23. Whenever the Collector may deem that any return lodged relating to lands for which no rent is payable by cultivating raiyats to the person making such return is untrue or incorrect, he may, whether any prosecution as mentioned in section 94 shall have been instituted or not, by such ways and means as to him shall seem expedient, ascertain and fix the annual value of such lands; and, in case the annual value of such lands so determined by him shall

exceed by one-fifth the value stated in such return, the expense of such valuation may be recovered from the person by whom such return was lodged, as provided in sections 98 and 99, and in all other cases the said expense shall be borne by the district road fund.

Person returned as cultivating raiyat may be served with notice.

24. The Collector may, whenever he may think fit, cause a notice in the form No. I in Schedule B contained to be served on any person holding any lands or possessing any interest therein, although such person may have been mentioned in any return as a cultivating raiyat; and thereupon such person shall be bound to make a return of the annual value of such lands within one month from the service of such notice in the form in Schedule A contained, and the provisions of sections 17 and 18 regarding extension of time for lodging a return and regarding fines respectively shall be applicable to such person.

If no return made, Collector may ascertain annual value of lands.

25. If no return is made by any person on whom a notice has been served as provided in the last preceding section, the Collector may proceed by such ways and means as to him shall seem expedient to ascertain the annual value of the lands held by such person; and, in case it appears that such annual value is greater than the rent paid by such person, the expense of such valuation shall be borne by such person and may be recovered with all costs of recovery thereof as provided in sections 98 and 99, but in all other cases shall be borne by the district road fund.

Collector may correct classification in returns.

26. If it shall appear to the Collector that any person on whom a notice has been served under section 24 has been wrongly classed in the return as a cultivating raiyat, the Collector may direct that the entry be corrected and that such person be classed as a tenure-holder;

and thereupon such person shall be deemed to be a tenure-holder for the purposes of the assessment and levy of the cesses in respect of the lands held by him.

Summary valuation of small revenue-paying estates and tenures.

27. Whenever the revenue annually payable in respect of any estate, or the rent annually payable in respect of any tenure, does not exceed the sum of one hundred rupees, the Collector may without issuing any notice for such estate or tenure—

(*a*) in any case determine the annual value of the land comprised therein to be in a permanently-settled estate or tenure a sum not exceeding three times, and in a temporarily-settled estate or tenure a sum not exceeding twice, the amount of the annual revenue or rent payable therefor; or,

(*b*) when the area of the said estate or tenure has been ascertained, determine the annual value of such estate or tenure to be at such rate per acre as to him shall seem fit.

Summary valuation of small revenue-free estates and rent-free tenures of which the area has been ascertained.

28. When the area of any revenue-free estates or rent-free tenure, the gross rental of which does not exceed, or is not estimated by the Collector to exceed, the sum of one hundred rupees, has been ascertained, the Collector may, without issuing any notice for such estate or tenure, determine the annual value of such estate or tenure to be at such rate per acre as to him may seem fit.

Computation of annual value of land comprised in a subordinate tenure in a summarily valued estate or tenure.

29. When the land contained in any estate or tenure has been summarily valued by the Collector in the manner provided by clause (*a*) of section 27, the annual value of any portion of such land which is comprised within a tenure subordinate to such estate or tenure shall be determined according to the following rules :—

(1) When the subordinate tenure comprises the whole of the estate or superior tenure, the annual value of the subordinate tenure shall be taken to be the same as that of the estate or superior tenure.

Example.—An estate paying a revenue of Rs. 80 is summarily valued by the Collector under clause (*a*) of section 27 at Rs. 200. The whole estate is let in patni for a rent of Rs. 120. The annual value of the patni tenure will be Rs. 200.

(2) When the subordinate tenure comprises a part only of the land constituting the estate or superior tenure—

(*a*) the difference between the annual value of the estate or superior tenure, and the revenue or rent payable in respect of such estate or superior tenure, shall first be ascertained;

(*b*) next, the ratio which such difference bears to such revenue or rent shall be ascertained;

(*c*) then the amount which bears the same ratio to the rent payable in respect of the subordinate tenure shall be ascertained;

(*d*) half of the amount so ascertained shall be added to the rent payable in respect of the subordinate tenure; and

the result shall be taken to be the annual value of the subordinate tenure.

Example A.—An estate paying revenue of Rs. 60 is summarily valued by the Collector under clause (*a*) of section 27 at Rs. 100. A part only of the estate is let in patni for a rent of Rs. 37-8.

The difference between the annual value of the estate (Rs. 100) and the revenue paid in respect of it (Rs. 60) is Rs. 40. This difference bears a ratio of two-thirds to this revenue (Rs. 60).

The amount which bears the same ratio (two-thirds) to the rent payable in respect of the patni (Rs. 37-8) is Rs. 25;

add half of Rs. 25 to the rent payable in respect of the patni tenure, and the result (Rs. 37-8+Rs. 12-8=) Rs. 50 will be the annual value of the patni tenure.

Example B.—Within the patni tenure paying a rent of Rs. 37-8, as in example A, is a darpatni tenure paying a rent of Rs. 27.

The difference between the annual value of the patni tenure ascertained as above (Rs. 50) and the rent payable in respect of the patni (Rs. 37-8) is Rs. 12-8, which bears a rate[a] of one-third to the said rent.

The amount which bears the same ratio (one-third) to the rent payable in respect of the darpatni (Rs. 27) is Rs. 9;

add half of Rs. 9 to the rent payable in respect of the darpatni, and the result (Rs. 27+Rs. 4-8 =) Rs. 31-8 will be the annual value of the darpatni tenure.

When such land may be valued according to rate per acre.

30. When the land contained in any estate or tenure has been summarily valued according to a rate per acre, under clause (*b*) of section 27, or under section 28, the annual value of the land comprised in any subordinate tenure shall be taken at the same rate per acre as that of the estate or superior tenure.

Holder of summarily valued estate or tenure may lodge return.

31. The holder of any estate or tenure which has been summarily valued under section 27 or 28 may, within one month from the posting of the valuation-roll in respect thereof under section 35, lodge a return in the form in Schedule A contained in regard to such estate or tenure, and thereupon such return shall be deemed to be a return made as required by section 16 and shall be dealt with accordingly.

Collector may value small estate or tenure by regular process.

32. Instead of proceeding to value any estate or tenure summarily under the provisions of section 27 or 28, the Collector may, if he think fit, cause a notice to be served in respect of any such estate or tenure in the form No. I in Schedule B contained, or in the form No. II in the said schedule contained, as the case may be, and thereupon all the provisions of this Part shall apply in the same way as they would have applied if the annual Government revenue or rent payable in respect of such estate or tenure had exceeded one hundred rupees.

Lands used for Tea, Coffee or Cinchona.

Return of plantations, &c.

33. In the case of lands acquired under any rules issued by, or under the authority of, the Government for the sale, lease, grant, or clearance of waste-lands, or held directly from Government, and used for the cultivation of tea,

[a] *Sic.*: read "ratio."

coffee or cinchona, the Collector shall, in lieu of the notice prescribed by section 16, cause a notice to be served calling on the holder of such lands to lodge, within two months of the service of such notice, a return in the form in Schedule C contained, giving the particulars in such form set forth; and the annual value of such lands shall be fixed at ten rupees in respect of every acre therein entered as cultivated, unless the Board of Revenue shall in any particular case prescribe a lower rate. The provisions of sections 18 and 21 shall apply to all lands in respect of which a notice has been issued under this section.

Publication of Valuation-rolls and Duration of Valuations.

Valuation-rolls to be prepared.

34. Whenever any valuation or re-valuation is made under this Part, the Collector shall cause to be prepared from the returns furnished to him and from the valuations made by him in accordance with this Act a valuation-roll of each estate within his district and of the tenures therein comprised, noting thereon for each estate the amount of revenue annually payable to Government on which the deduction specified in section 41 is to be calculated.

On the application of any holder of an estate or tenure or holding, and on payment of such copying fee as the Board of Revenue shall from time to time determine, the Collector shall cause to be furnished to such holder a copy or corrected copy of so much of any such returns, and of any such roll as relate to the lands included within his estate, tenure or holding.

Publication of rolls

35. On the completion of every roll prescribed under this Part, the Collector shall cause a copy thereof to be posted up at the mal-kachahri of the estate to which such roll refers, and shall cause extracts of such portions of any such roll as refer to any tenure to be posted up at the mal-kachahri of such tenure:

Provided that, if no such mal-kachahri be found, such roll and such extracts shall be posted up at some conspicuous places on the estate and tenures respectively to which they refer, and that, if such estate or tenure cannot be found, such roll and such extracts shall be posted at some conspicuous place in any village in which such estate or tenure is believed to be situate.

To be attested by two persons.

The person who is entrusted with the publication of any such return shall obtain an acknowledgment in writing signed by two persons who may be either respectable residents of the neighbourhood, or chaukidárs, or other officers of Government, to the effect that such return was duly published on the spot, and shall give in such acknowledgment to the Collector.

Valuation and

36. Except as otherwise in this Part expressly provided, every valuation

and re-valuation made under this Chapter shall remain in force for the term of five years from the date fixed by the Lieutenant-Governor under section 12 as the date from which the cess leviable in pursuance thereof shall take effect, and thereafter, until another re-valuation and assessment in substitution therefor shall have been ordered and completed.

re-valuation to be in force for five years.

37. Nothing in section 36 contained shall be held to debar the Collector, with the sanction of the Board of Revenue, from making at any time any reduction which he may think fit in the valuation of any estate or tenure;

Collector may reduce valuation,

or from making a valuation of and assessing and levying cess under the rules laid down in this Part upon any estate or tenure which for any reason whatever has been omitted from the valuations and assessments for the time being in force, or which was not in existence when such valuation or assessment was made.

and may value and assess omitted and newly-found estates and tenures.

CHAPTER III.

Rating and Levy of the Cesses.

38.[a] The road cess for each year shall be assessed and levied in each district as provided in section 6, and, subject to the maximum rate in that section mentioned, at such rate as may be determined for such year by the committee of such district with the approval of the Commissioner under section 150 or 151, or with the approval of the Lieutenant-Governor under section 153, as the case may be, or at such rate as the Lieutenant-Governor may order under section 153.

Rate at which road cess shall be levied how to be fixed.

39. The public works cess for each year shall be assessed and levied in each district as provided in section 6, and, subject to the maximum rate in that section mentioned, at such rate as the Lieutenant-Governor may determine for such year.

Rate at which public works cess shall be levied how to be fixed.

40. When the rate of road cess and public works cess to be levied in any district shall have been determined for any year and published in the Calcutta Gazette[b] as provided in section 155,[b] the Collector of the district

Notice showing amount of cess payable to be served on zamindárs.

shall cause the rate so determined to be published by affixing a notification in some conspicuous place in the office of the said Collector, in every Civil

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[a] In districts in which the Bengal Local Self-government Act of 1885 is in force the following has been substituted for s. 38 (see Ben. Act III of 1885, s. 2 and Sch. II, *infra*:—

"38. The road cess for each year shall be assessed and levied in each district as provided in section 6, and (subject to the maximum rate in that section mentioned) at such rate as may be determined for such year by the district board."

Rate at which road cess shall be levied how to be fixed.

[b-b] These words and figures in s. 40 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch. II, *infra*.

Court, in every police-station, and in the office of every Subdivisional Officer within the district, and

shall cause such rate to be proclaimed by beat of drum throughout the district, and

shall cause to be served on the holder of every estate within the district a notice showing the amount of road cess and public works cess payable in respect of his estate, and specifying the date from which such road cess and public works cess will take effect:

Provided that it shall not be necessary to serve such notice when no change has been made in the valuation of the estate or in the rate of road cess or public works cess since the issue of the last notice under this section.

Recovery of cess from tenures in Government estates.

40A.[a] Notwithstanding anything in the definitions of "estate" and "tenure" in section 4 or elsewhere in this Act contained, the Board of Revenue may direct that any land (other than the holding of a cultivating raiyat) of which the rent or revenue is payable directly to the Government as proprietor thereof shall, for the purposes of this Part, be deemed to be a tenure and not an estate, and that the Government shall be deemed to be the holder of the estate within which such tenure is included, and thereupon the Collector may recover any sum payable from such tenure under the provisions of this Act, in the same manner and under the same penalties as if the same were arrears of rent or revenue due to him.

Mode of payment of road cess and public works cess by holder of estate;

41. Except as otherwise in this Act provided—

(1) every holder of an estate shall yearly pay to the Collector the entire amount of the road cess and public works cess calculated on the annual value of the lands comprised in such estate, at the rate or rates which may have been determined for such cesses respectively for the year as in this Act provided, less a deduction to be calculated at one half of the said rates for every rupee of the revenue entered in the valuation-roll of such estate as payable in respect thereof;

by holder of tenure;

(2) every holder of a tenure shall yearly pay to the holder of the estate or tenure within which the land held by him is included the entire amount of the road cess and public works cess calculated on the annual value of the land comprised in his tenure at the rate or rates which may have been determined for such cesses respectively for the year as in this Act provided, less a deduction to be calculated at one-

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[a] S. 40A has been inserted by Ben. Act II of 1881, s. 4—see Ben. Act II of 1881, s. 4, *infra*.

half of the said rates for every rupee of the rent payable by him for such tenure;

(3) every cultivating raiyat shall pay to the person to whom his rent is payable one-half of the said road cess and public works cess calculated at the said rate or rates respectively upon the rent payable by him, or upon the annual value ascertained under the provisions of section 24 or 25 of the land held by him. by cultivating raiyat.

42. (1) Every holder of a revenue-paying estate shall pay the amount of road cess and public works cess due by him in equal instalments on the several days fixed [a]under the provisions of section 3 of Act XI of 1859, or of any similar Act at the time being in force for the payment of arrears[a] of revenue due in respect of his estate, or, if such revenue be payable in one annual sum, then on the day fixed for the payment of such sum. Time of payment by holder of an estate;

(2) Every holder of a revenue-free estate shall pay the amount of road cess and public works cess due by him in two equal instalments or in one annual payment upon such days or day as shall be for that purpose appointed by any order of the Lieutenant-Governor.

(3) Every holder of a rent-paying tenure and every cultivating raiyat shall pay the amount of road cess and public works cess due by him in instalments in the proportion of the instalments of rent payable in respect of the tenure or holding of such tenure-holder or raiyat: by tenure-holder and raiyat.

Provided that in cases in which, according to local usage or to the terms of any agreement, no part of such rent falls due before the end of the year on account of which it is payable, the tenure-holder or raiyat shall pay the amount of road cess and public works cess due by him in two equal instalments upon such days as shall be for that purpose appointed by any order of the Lieutenant-Governor.

43. In case of partition of an estate being effected under Regulation XIX of 1814,[b] or Bengal Act VIII of 1876,[c] or any similar Act, after valuation of such estate and while such valuation remains in force, the total valuation of the original estate shall be distributed proportionately [d]to the land-revenue[d] under the order of the Collector over the newly-formed estates, whereupon the newly-formed estates shall, for the purposes of this Act, take the place of the Distribution of valuation in case of partition.

[a-a] These words in s. 42 (*1*) have been substituted for the original words by Ben. Act II of 1881, s. 5—see Ben. Act II of 1881, s. 5, *infra*.

[b] Ben. Reg. XIX of 1814 has been repealed in Bengal by Ben. Act VIII of 1876 and in Assam by Reg. I of 1886.

[c] See *supra*, p. 320.

[d-d] These words in s. 43 have been inserted by Ben. Act II of 1881, s. 6—see Ben. Act II of 1881, s. 6, *infra*.

original estate, the liability to pay cess in respect of each newly-formed estate being separate and distinct from the liability to pay cess in respect of any other of such newly-formed estates.

Such separate liability shall take effect from the same date as the separate liability of the newly-formed estates respectively in respect of land-revenue.

Procedure to be followed when there is a partition.

The procedure prescribed by sections 34 and 35 shall be followed whenever a re-distribution of the valuation is made in consequence of a partition as mentioned in [a]this section.[a]

Effect of opening separate account under Act XI of 1859 or Ben. Act VII of 1876.

44. When a recorded sharer of a joint revenue-paying estate has opened a separate account under Act XI of 1859,[b] or under section 70 of Bengal Act VII of 1876,[c] or any similar law for the time being in force for the regulation of the opening and maintaining of such separate accounts, he shall be entitled, in regard to the payment and realization of road cess and public works cess under this Act, to all the advantages of separate liability enjoyed by him under the said Act XI of 1859,[b] and Bengal Act VII of 1876[c] in regard to the payment and realization of revenue, and shall be entitled to separate assessment and to the issue of separate notices under this Act from the date on which such advantages shall take effect in respect of the demand of Government revenue.

(2) Whenever any such separate account is opened after the valuation of an estate, and while such valuation remains in force, the Collector shall issue a notice on the holders of the shares severally, in respect of which the accounts are to be kept separately, informing them that, unless any objection is preferred to the Collector within one month of the service of such notice, the amount of the cesses which the whole estate is liable to pay according to the existing valuation will, from the date on which such separate accounts were opened, be apportioned among such shares severally in proportion to the amount of Government revenue for the payment of which each such share is entered in the separate accounts as being liable. Such notice shall specify such proportionate amount.

(3) If no such objection be preferred within the time specified, such proportionate amount shall be the amount of the cesses for which the respective holders of such several shares are primarily liable as mentioned in section 13 of Act XI of 1859,[b] subject, however, to the general responsibility of the holders of the entire estate as mentioned in section 14 of the said Act, if the

[a] These words in s. 43 have been substituted for the original words by Ben. Act II of 1881, s. 6—see Ben. Act II of 1881, s. 6, *infra*.

[b] For Act XI of 1859, see Vol. I, p. 380.

[c] For Ben. Act VII of 1876, see *supra*, p. 292.

amount of the cesses due on account of any such share cannot be recovered as provided in sections 98 and 99 of this Act from the holders of such share.

(4) If any such objection shall be preferred as aforesaid, the total amount of the cesses for which the whole estate is liable according to the existing valuation shall be apportioned among the several shares in respect of which such separate accounts are opened in proportion to the annual value of such shares respectively under such rules or special instructions, not being inconsistent with this Act, as may be issued by the Board of Revenue ; and the holders of such several shares shall be primarily liable as aforesaid for the payment of the amount of the cesses so apportioned on their shares respectively.

(5)[a] Whenever the separate account of the revenue payable in respect of any share or portion of an estate, as mentioned in clause (1) of this section, shall be closed, the provisions of this section shall cease to have effect in respect of such share.

Penalty for default of payment of instalments.

45. If any instalment of road cess or public works cess or part thereof payable to the Collector shall not be paid within fifteen days from the date on which the same becomes due, the amount of such instalment or part thereof may be recovered at any time within three years after it became due, with interest at the rate of twelve [b]and a half[b] per centum per annum calculated from the date on which such instalment became due, and with all costs of recovering the same.

With permission of the Lieutenant-Governor, Collector may keep separate account of cesses payable by registered holders of revenue-free estates.

46. (1) In any district to which the Lieutenant-Governor may specially order that the provisions of this section shall be extended, it shall be lawful for the Collector to keep a separate account in respect of the amount of cesses payable and paid by any holder of a revenue-free estate who is recorded in Part I of the Collector's general register of revenue-free lands as proprietor or manager of any specified share or interest in any revenue-free property.

(2) Such separate account shall be opened and kept under such rules as to the levy of fees and other matters, and subject to such conditions and in such manner, as the Board of Revenue may from time to time prescribe, and the Board of Revenue may at any time order that any separate account which has been so opened shall be closed from such time as they may direct, and no longer kept as a separate account.

(3) As long as any separate account shall remain open as provided in the

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[a] Cl. (5) of s. 44 has been added by Ben. Act II of 1881, s. 7—see Ben. Act II of 1881, s. 7, *infra*.

[b-b] These words in s. 45 have been inserted by Ben. Act II of 1881, s. 8—see Ben. Act II of 1881, s. 8, *infra*.

[a]preceding clause,[a] and no longer, the joint liability of the holders of such revenue-free estate for payment of the entire amount payable in respect of such estate shall cease; and the Collector shall recover the amount of cess or other demand due in respect of each share or interest for which an account has been so separately kept from the holder or holders of such share or interest only; and, if the Collector shall think fit to proceed under section 99, he shall take action under that section against the share or interest only in respect of which the sum demanded is due and the rents thereof.

Recovery by holders of estates or tenures.

47. Every holder of an estate or tenure to whom any sum may be payable under the provisions of this Act may recover the same with interest at the rate of twelve and half per centum per annum in the same manner and under the same penalties as if the same were arrears of rent due to him.

Recovery from co-shareholders.

48. Any shareholder in an estate or tenure who may have paid the road cess or public works cess payable in respect of such estate, tenure or any part thereof in excess of the amount proportionate to his own interest in such estate or tenure, may recover from his co-sharers such sums as he may have paid on account of their respective shares and interests, in the same manner and under similar penalties, or may take credit for such sums in any adjustment of accounts between himself and his co-sharers.

Recovery by recorded shareholders from their co-sharers by certificate process.

49. Whenever any shareholder in an estate who is recorded in the general register of revenue-paying and revenue-free lands maintained by the Collector, or whenever any shareholder in an estate the extent of whose share or interest in such estate is recorded in any other register kept up by the Collector of lands paying revenue or rent to the Collector direct, shall have paid the road cess or public works cess payable in respect of such estate, or any part thereof in excess of the amount proportionate to his own interest in such estate, he may, within fifteen days of such payment being made, move the Collector to make a certificate as provided by any law[b] for the time being in force for the recovery of public demands, specifying the amount which has been paid in by such shareholder as cess in respect of the recorded share or interest of any other shareholder in the estate;

and thereupon such Collector may, if he think fit, make such certificate, and such certificate shall have the same effect as a certificate made for the recovery of a public demand; and the same notices shall be issued and the same proceedings may be taken thereon by the Collector as in case of such certificate:

[a-a] These words in s. 46 (3) have been substituted for the original words by Ben. Act II of 1881, s. 9—see Ben. Act II of 1881, s. 9, *infra*.

[b] See Ben. Act VII of 1880, s. 7, *supra*, p. 515.

Provided that the person in whose favour the certificate has been made shall be deemed to be the decree-holder for the sum mentioned in the certificate; and all proceedings taken by the Collector for the recovery of the sums mentioned in the certificate shall be taken at the instance of the person in whose favour the certificate has been made and at his cost, and on his responsibility, and not otherwise:

Provided also that, if any person against whom such certificate has been made shall object that the amount of the cesses for the recovery of which the certificate has been made is greater than the amount which the applicant for the certificate would recover from such person in a Civil Court as being equitably payable in respect of such person's share or interest in the estate, and if in the opinion of the Collector there is probable ground for such objection, the Collector may, if he see fit, cancel such certificate, and leave the applicant to his remedy in the Civil Court.

CHAPTER VI.

Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.

Rent-free lands in what estates or tenures to be included for the purposes of this Act.

50. All lands held without payment of rent other than lands mentioned in section 33, and other than estates entered on the general register of revenue-free lands of the district, shall, for the purposes of this Act, be deemed to form a part of any tenure within the local boundaries of which they are contained; and if they are not contained within the local boundaries of any tenure, then to form a part of any estate within the local boundaries of which they are contained; and if they are not contained within the local boundaries of any estate, then to form a part of the estate in which they were included at the original settlement of such estate; and if there be any doubt as to the estate in which they were so included, then to form a part of such conterminous estate as the Collector, in whose district such conterminous estate is situate, shall by an order under his seal appoint.

Holders of estates and tenures bound to return rent-free lands and to pay cess at half rates for such lands included therein.

51. Every holder of an estate or tenure who is required by this Act to submit a return in the form in Schedule A contained shall be bound to enter in such return all lands of the nature of those specified in section 50 according to the tenor thereof; and shall be bound to pay road cess and public works cess on the annual value of such lands at one-half of the rates fixed under this Act for the levy of such cesses respectively in the district generally for the year.

Notice and extracts of valuation-roll to be published by Collector in respect of such rent-free lands.

52. Whenever any lands held rent-free shall have been included in the return of any estate or tenure as provided in the last preceding section, the Collector shall, on publication of the valuation-roll of such estate or tenure as provided in section 35, cause to be published a notice in the form in Schedule D contained, to which notice shall be annexed such extracts from the valuation-roll of such estate or tenure as relate to such lands.

Such publication may be lawfully made by affixing one copy of such notice and extracts at some conspicuous place in every village within which any such lands are situate,

by depositing another copy of the same at any police-station, registration-office or other Government office in the neighbourhood for the inspection of all concerned,

and by proclamation as herein next provided.

The proclamation shall be made by beat of drum throughout every such village, and shall be to the effect that such extracts have been so affixed and deposited, and that the owners and holders of such lands are required to inform themselves, by inspection of such extracts of the valuation put upon their lands, and to pay yearly to the holder of the estate or tenure in the return of which such lands are included the cesses which shall be payable in respect of such lands under the provisions of this Act.

Holder of rent-free land may object to valuation.

53. Within a reasonable time not exceeding thirty days after the issue of any process for the recovery of any sum due from him as cess under this chapter, the owner, holder or occupier of any such land may make before the Collector an objection to the valuation of his land as entered in the valuation-roll so published, and on such objection being made the Collector shall, by such ways and means as to him shall seem expedient, ascertain and fix the annual value of the land in the possession of such owner, holder or occupier, and may alter such roll accordingly, and shall give notice of any such alteration to the holder of the estate or tenure to which such roll relates:

Provided that nothing in this section shall be taken to authorize the Collector to alter any return so as to show any area of land as held rent-free which the maker of such return can show to be accounted for by him in the return as rent-paying land.

Notice to be published by holders of estate in certain cases.

54. In the following cases, that is to say:—

(1) whenever a new valuation or re-valuation takes effect in any district or part of a district;

(2) whenever the rate fixed for the levy of the road cess or of the public

works cess in any year is changed from the rate at which such cess was levied in the preceding year; and

(3) whenever the dates fixed by the Lieutenant-Governor under section 57 for payment of instalments of the cesses by holders of rent-free land are changed,

the holder of every estate or tenure to whom any cesses are payable in respect of lands held free of rent shall cause a notice to be published in every village in which any such lands are situate, informing all concerned of the rate which has been fixed for the levy of such cesses respectively; and requiring every owner and holder of any such land of which the cesses are payable to the person who causes the notice to be published to pay the amount of the cesses specified in such notice as it falls due, until a similar notice of change of the amount shall be given.

Such notice shall contain the following information in respect of each tenure and holding of rent-free land which is entered separately in the Collector's valuation-roll:—

(1) a specification of the land in respect of which the cesses are payable;

(2) the name of the owner, holder or occupier of such lands, if known;

(3) the annual value of such land as entered in the Collector's valuation-roll;

(4) the rate on each rupee of the annual value which has been fixed under the Act for the levy of the road cess and public works cess respectively for the year;

(5) the amount of the cesses payable in respect of each tenure or holding, calculated at such rates; and

(6) the dates fixed by the Lieutenant-Governor under section 57 for the payment of each instalment, together with the amount of each instalment.

Mode of publication.

55. Publication of the notice abovementioned may be lawfully made by affixing one copy of the same at some conspicuous place in every village in which any such land is situate;

by depositing another copy thereof to be available for general inspection at any mal-kachahri of the estate or tenure in which such land is included, or at any other convenient place in the neighbourhood;

and by proclamation as herein next provided.

The proclamation shall be made by beat of drum throughout such village, and shall be to the effect that such notice has been so affixed and so deposited, that it is open to inspection at the mal-kachahri or other convenient

place as above mentioned, and that every owner and holder of rent-free land is required to inform himself of the contents of such notice and to pay the amount of the cesses due by him accordingly.

Owner of rent-free land bound to pay cess at full rate.

56. After publication of the extracts from the roll as provided in section 52, and in cases in which publication of the notice mentioned in section 54 is required, after publication of such notice, and not otherwise, every owner and holder of any rent-free land included in such extracts, and every person in receipt of the rents and profits or in possession and enjoyment of such land, shall be bound to pay year by year to the holder of the estate or tenure in the return of which such land has been included the amount of the road cess and public works cess which may thereafter become due to such holder, calculated on the annual value of such land as entered in such extracts, or on any other annual value which may have been determined by the Collector under section 53, at the full rate or rates which may have been fixed under this Act for the levy of such cesses respectively in the district generally for the year.

Instalments to be fixed by Lieutenant-Governor.

57. The payment of the cesses for each year by the holder of any land which is held rent-free shall be made by two equal instalments, or in one payment, upon such days or day as shall be for that purpose fixed by the Lieutenant-Governor.

If instalments not paid within a month, double the amount may be recovered.

58. When an instalment of the cesses due on any rent-free land is not paid to the holder of the estate or tenure to whom it is due within one month of the date on which such instalment is payable, such holder shall be entitled to recover a sum equal to double the amount of such instalment due to him under sections 56 and 57, with interest on such sum calculated at the rate of twelve and a half per centum per annum from the date on which such instalment was payable, and with all costs of suit:

Provided that such holder shall have paid to the Collector all sums due to such Collector up to date in respect of road cess and public works cess, and not otherwise.

Holders of estates, &c., may send in supplementary returns in respect of rent-free lands.

59. If the holder of any estate or tenure shall have omitted to enter in his return (whether such return was made under Bengal Act X of 1871,[a] or under this Act) any rent-free land which he was bound to enter in such return, such holder may at any time after the passing of this Act give in to the Collector a supplementary return showing the necessary particulars in respect of the land so omitted in the form given in Part IV of Schedule A, and shall thereupon pay to the Collector the amount of the cesses which would have been payable

[a] Ben. Act X of 1871 has been repealed by this Act—see s. 3, *supra*, p. 540.

by him to such Collector in respect of such land for the three years next preceding, or for any shorter period which may have elapsed since the estate or tenure was last valued.

Effect of supplementary returns.

60. Such supplementary return shall to all intents and purposes have the same effect as a return duly made under the provisions of section 51; and sections 51 to 56 (both inclusive) shall be applicable to and in respect of any rent-free land included in such supplementary return.

Sections applicable to amounts payable by owner, &c., of rent-free land.

61. The provisions of sections 57 and 58 shall be applicable to every amount which, as provided in section 56, may become payable by the owner and holder of any such rent-free land to the holder of any such estate or tenure after the fulfilment of the requirements in sections 52, 53 and 54 contained.

Section 58 not applicable to such amounts until sections 52, 53 and 54 are complied with.

62. The provisions of section 58 shall not be applicable to any such amount which may have become so payable under the provisions of Bengal Act X of 1871[a] or of this Act before the fulfilment of the requirements of the sections 52, 53 and 54; but, when any instalment of cess which may have become payable before the fulfilment of such requirements has not been paid to the holder of such estate or tenure on the date on which such instalment was payable, the holder of such estate or tenure may recover the amount of such instalment, together with interest at the rate of twelve and a half per centum per annum on such amount, and with all costs of suit:

Provided that no holder of an estate or tenure shall recover any amount under the provisions of this section unless he has paid to the Collector all sums which became payable by him to such Collector on account of road cess and public works cess, at any date within the year in which the amount sought to be recovered became payable to such holder of an estate or tenure.

Owner of rent-free land liable to pay cess in future.

63. As soon as the said requirements shall have been fulfilled in respect of any such land which is included in any such supplementary return, every owner and holder of such land and every person in receipt of the rents and profits, or in possession and enjoyment of such land, shall be bound to pay the amount of the road cess and public works cess which may thereafter become due on such land to the holder of the estate or tenure, in the supplementary return of which such land has been included. Sections 56 and 57 and 58 shall be applicable to the cesses so payable.

Additional return of rent-free land entered in

64. (1) Every holder of an estate or tenure who has included any rent-free lands in any return made to the Collector in respect of his estate or tenure under the provisions of the Bengal Act X of 1871,[a] and has paid to the

[a] Ben. Act X of 1871 has been repealed by this Act—see s. 3, *supra*, p. 540.

return under Ben. Act X of 1871 may be made.

Collector any cess payable under the said Act, or under the Bengal Act II of 1877,[a] in respect of the said rent-free lands, may at any time after the commencement of this Act give in to such Collector an additional return in the form given in Part IV of Schedule A.

Additional return to be deemed supplementary return.

(2) Such additional return shall be deemed to be a supplementary return within the meaning of section 59, and from the date of the inclusion of any such lands in such additional return the same consequences shall ensue, and the same rights and obligations accrue to the Collector and to the holder of such estate or tenure, and the same liabilities shall attach to the owner, holder and occupier of such lands, as would have attached to them respectively if such lands had been included in a supplementary return given in under section 59.

Holder of estates, &c., how to recover from holders of rent-free lands.

64A.[b] All sums due to the holder of any estate or tenure under the provisions of this chapter, in respect of any land held rent-free, may be recovered by such holder from any owner or holder of such rent-free land, or from any occupier of the same, by any means and any process by which the amount might be recovered if it were due on account of rent of a transferable tenure or holding, and subject to the same rules as to limitation :

Provided that, if any such objection as is mentioned in section 53 has been made before the Collector, no proceedings shall be commenced, and no proceedings which have been commenced shall be continued, for recovery of cess in respect of the lands which are the subject of such objection, until such objection shall have been disposed of by the Collector.

Owner, holder or occupier of rent-free lands may be sued.

Decree against occupier tantamount to decree against owner.

64B.[b] In every suit for the recovery of any such sum, the person to whom the sum is due may proceed at his option either against the owner or holder of the rent-free land in respect of which such amount is due, or against the occupier thereof; and any decree obtained in such suit against any occupier of such land shall have the same effect and be followed by the same consequences in respect of the execution of such decree against the owner or holder of such land, and in respect of the sale of such land in such execution, as if the suit had been brought and the decree given against such owner or holder of such land, but shall have effect against such occupier personally so long only as he remains in occupation of such land, and no longer.

Occupier may deduct cess paid from rent.

65. Whenever any occupier of land which is held rent-free by the owner thereof shall have paid any sum as cess due in respect of such land to any

[a] Ben. Act II of 1877 has been repealed by this Act—see s. 3, *supra*, p. 540.

[b] Ss. 64A and 64B have been inserted by Act VII of 1881, and are to be deemed to have been inserted from the date on which Ben. Act IX of 1880 came into force—see Act VII of 1881, in Vol. I, p. 441.

holder of an estate or tenure to whom such cess is payable, such occupier shall be entitled to deduct the sum so paid by him from the rent next thereafter payable by him to the owner of such land, until such sum is fully adjusted.

Notice to be served on holder of rent-free land requiring him to lodge return.

66. Notwithstanding anything in this chapter contained, the Collector may at any time cause a notice as mentioned in section 16 to be served on the holder of any rent-free land which he shall consider not to have been entered in the return of any estate or tenure in which such land ought to have been included under the provisions of section 51. Such notice shall require the holder of such land to lodge at the office of the said Collector a return in the form in Schedule A contained in respect of such land;

and on service of such notice the provisions of this chapter shall no longer apply to such lands; but the same consequences shall ensue and the same liabilities shall attach to the holder of such land as would have ensued and would have attached if such lands had constituted a revenue-free estate.

If the Collector has reason to believe that any land in respect of which he determines to serve such notice has been included in the return of any estate or tenure, he shall give notice of his intention to the holder of such estate or tenure, and shall alter such return as may be requisite, and shall correct the valuation and assessment of such estate or tenure as may be required.

If no notice served, such holder bound to notify omission to Collector.

67. If within one year of the commencement of this Act no notice has been served as mentioned in section 66 on the holder of any rent-free land requiring him to lodge a return in the office of the Collector, and if such land has not been included in any extracts from the returns of estates and tenures published by the Collector under section 52 or other similar section, the holder of such rent-free land shall be bound within one month of the expiration of such year to give information of such omission to the Collector, together with a description of the said land, a specification of the village or villages within which it is situate, the area in each village, and the amount of rent payable to him thereupon:

Provided that no holder of rent-free land who at any time after the expiration of the time prescribed shall of his own motion and otherwise than after the issue of any notice by the Collector in respect of his lands give such information to the Collector shall be liable to prosecution for omitting to give such information within the prescribed time.

Collector thereupon may require such holder to make return.

68. On receipt of such information, whether within the time prescribed or after the expiration thereof, the Collector may, by an order in writing, require such owner or holder to make a return of his land in the form in Schedule A

contained, or, if the gross rental of such land does not exceed one hundred rupees, may order that such land shall be summarily valued under section 27 or section 28, and may proceed to make such valuation.

Order to have effect of notice.

69. Every order made by a Collector under the last preceding section shall have the same effect and be followed by the same consequences as the issue of a notice by the Collector under section 66.

Liability of such holder to pay arrears of cesses.

70. As soon as any rent-free land, which had not previously been included in the valuation of any estate or tenure, has been valued by the Collector after the issue of a notice as provided in section 66, or after an order made under section 68, the holder of such land shall become liable to pay to the Collector the road cess and the public works cess due on such land, in accordance with such valuation, for the three years last preceding such valuation, at the full rates at which such cesses were respectively levied for each such year in the district generally, together with interest calculated at twelve and a half per centum per annum on each instalment from the date on which such instalment would have been payable if such valuation had been in force.

Such holder is not liable to pay cesses except to Collector or his Deputy.

71. No owner or holder of rent-free land on whom a notice has been served by the Collector under section 66, or in respect of whose land an order has been made by the Collector under section 68, shall be liable to have the land to which such notice or order refers included in any return of an estate or tenure, or to pay any amount as road cess or public works cess otherwise than to the Collector or to some person appointed by him in that behalf, unless, on a re-valuation of any estate or tenure being made, the Collector shall by an order in writing direct that for the future such land shall be included within such estate or tenure for the purposes of this Act;

and, upon such order being made, the provisions of this chapter, in so far as they are applicable, shall apply to the assessment and payment of road cess and public works cess in respect of such land.

CHAPTER V.

Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.

Notice to return profits.

72. On the commencement of this Act in any district, and thereafter before the close of each year, the Collector of the district shall cause a notice to be served upon the owner, chief agent, manager or occupier of every mine, quarry,

tramway, railway and other immoveable property not included within the provisions of Chapter II, and not being one of the tramways or railways mentioned in section 8; such notice shall be in the form in Schedule E contained, and shall require such owner, chief agent, manager or occupier to lodge in the office of such Collector within two months a return of the net annual profits of such property, calculated on the average of the annual net profits thereof for the last three years for which accounts have been made up.

Such Collector may in his discretion extend the time allowed for lodging such return.

When property lies in different districts.

73. Whenever any property assessable under this chapter lies in two or more districts, the notice to furnish a return under section 72 shall be served on the owner, chief agent, manager or occupier of such property by or through the Collector of the district in which such owner, chief agent, manager or occupier may reside or have his chief place of business, and one return for the whole of such property shall suffice.

When property is partly in and partly outside Bengal.

74. Whenever any property assessable under this chapter lies partly within and partly outside the territories administered by the Lieutenant-Governor of Bengal, the return furnished as required by section 72 shall state the total annual net profits calculated as aforesaid accruing from such property, and also the proportion of such profits which may reasonably be calculated to accrue in the territories administered by the Lieutenant-Governor of Bengal.

If return not furnished or incorrect, Collector to make valuation.

75. If such return be not furnished within the period of two months from the date on which such notice was served, or within any extended time allowed by the Collector of the district, or if such Collector shall deem that any return made in pursuance of such notice is untrue or incorrect, such Collector shall proceed to ascertain and determine by such ways or means as to him shall seem expedient the annual net profits of such property calculated as aforesaid.

Valuation on value of property.

76. If such Collector be unable to ascertain the annual net profits as aforesaid of any property assessable under this chapter, he may, by such ways or means as to him shall seem expedient, ascertain and determine the value of such property, and shall thereupon determine six per centum on such value to be the annual net profits thereon.

Cost of valuation from whom to be recovered.

77. The expenses incurred in making any valuation under section 75 or section 76 may be recovered together with all costs of the recovery thereof as provided in section 98 from the person who was bound to make such return or who made the incorrect return.

Notice of valuation.

78. So soon as such Collector shall have ascertained and determined the

annual net profits as aforesaid of any such property, he shall cause to be served upon the owner, chief agent, manager or occupier of such property a notice informing him of the amount of the annual net profits so ascertained and determined by him.

Valuations under this chapter to be annual.

79. New valuations under this chapter shall be made by the Collector of the district every year, and such Collector may for that purpose cause such notices to be issued and served, and such returns to be made, and shall have such powers and authorities as are in this Part mentioned and conferred:

Declaration of annual net profits by owner for five years.

Provided that, whenever any return made under section 72 shall be accepted by the Collector for any year, the owner, chief agent, manager or occupier of such property may, if he see fit, declare in writing at the time of such acceptance that the annual net profits set forth in such return may, for the purposes of this Act, be deemed to be the annual net profits for each of the five years then next ensuing;

Effect of acceptance by Collector of declaration.

and, if the Collector of the district shall agree to accept such declaration, no new valuation shall be made of such property until the said five years shall have expired.

Notice of rate of cess and dates of payments.

80. When the rate of road cess and public works cess to be levied in the district upon property assessable under this chapter shall have been determined for any year as in this Act provided, the Collector of the district shall cause to be served on the owner, chief agent, manager or occupier of every such property a notice showing the amount of road cess and public works cess respectively payable in respect of such property, and specifying the date from which such cesses shall take effect. And such amount shall be payable by such owner, chief agent, manager or occupier to such Collector in two equal instalments—the first on the expiry of six months, the second on the expiry of nine months, after the date fixed as hereinbefore provided for the commencement of the year.

Recovery by occupier or owner who has paid in excess.

81. In any case in which the occupier of such property is a different person from the owner, and has paid in excess of half of the sum due as road cess and public works cess on account of any instalment, such occupier shall be entitled to deduct the amount of such excess from the next and subsequent instalments of rent payable in respect of such property; and every owner who has paid in excess of half of such sum due shall be entitled to recover the amount of such excess from the occupier:

Provided that in no case shall an occupier deduct from his annual rent more than half of the rate of the road cess and public works cess on every rupee thereof.

How distributed when property in different districts.

82. The total of the cesses payable in respect of property assessable under this chapter, owned or occupied by the same person in two or more districts, shall be payable to the Collector of the district where the owner, chief agent, manager or occupier may reside or have his chief place of business, and shall be by him transmitted to the Collectors of other districts in the proportion in which the committees* of such districts shall be severally entitled thereto, as provided in the section next following.

Determination of proportion of profits when property in different districts.

83. Whenever any property assessable under this chapter lies in two or more districts, the Lieutenant-Governor shall from time to time determine out of the total annual net profits stated in the return, or in the valuation of such profits accruing in the territories subject to him, and ascertained in any manner as aforesaid, the proportions in which such property shall be assessed in each of the said districts respectively, and the proportion of the road cess due thereon which shall be assigned to the committee* of each district concerned.

Service of notices under this chapter.

84. Every notice under this chapter may be served—

(*a*) by leaving it at the registered office (if any) of such owner, chief agent, manager or occupier aforesaid; or

(*b*) by sending it by post in a letter addressed to such owner, chief agent manager or occupier at his office, or, if he have more offices than one, at his principal office; or

(*c*) by giving it to such owner, chief agent, manager or occupier.

CHAPTER VI.

Special Provisions for Orissa and Midnapore.

Collectors in Orissa and Midnapore may order certain revenue-free estates to be annexed to other estates for purposes of payment of cess.

85. In any district of the province of Orissa, and the district of Midnapore, the Collector may at any time, with the sanction of the Commissioner, order that any revenue-free estate not exceeding five hundred standard bighas in extent, of which the valuation shall have been completed, shall, for the purpose of payment and levy of the cesses due in respect thereof, be annexed to any other estate within the ambit of which it is situate or which it adjoins.

Notice to be

86. Notice of such order shall be given by the Collector to the holder of

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* In districts in which the Bengal Local Self-government Act of 1885 is in force, the words "district road funds" have been substituted for "committees", and "district road fund" for "committee", in ss. 82 and 83 respectively—see Ben. Act III of 1885, s. 2 and Sch. II, *infra*.

given to holder of estate to which such revenue-free estate is annexed.

the estate to which such revenue-free estate is ordered to be so annexed, and to such notice shall be appended a copy of the valuation-roll of the said revenue-free estate, and thereupon such holder shall be liable to pay annually to the Collector, on account of such revenue-free estate, road cess and public works cess at one-half of the rates which may be fixed under this Act for the levy of the said cesses respectively in the district generally for each year.

Notice to be given to holder of revenue-free estate.

87. Notice of such order shall also be given by the Collector to the holder of the said revenue-free estate, and such notice shall require him to pay annually, and he shall thereupon be bound to pay to the holder of such other estate road cess and public works cess at the full rates which may be fixed under this Act for the levy of the said cesses respectively in the district generally for each year.

Cesses payable by holder of revenue-free estates in such instalments as Lieutenant-Governor may direct.

88. Such cesses shall be so payable by the holder of the said revenue-free estates in two equal instalments, on such dates as may be fixed by the Lieutenant-Governor under section 42 for the payment of cess by the holders of revenue-free estates, or in such other instalments and on such other dates as the Lieutenant-Governor may direct, or, if the Lieutenant-Governor shall so order, the whole amount so payable on account of such cesses for each year shall be payable in a single sum on any such date as the Lieutenant-Governor may appoint.

In default of payment as hereby required, the provisions of section 47 shall be applicable.

Notices to be served.

89. Whenever the service of a notice on the holder of a revenue-free estate is required by the provisions of section 40, the Collector shall cause such notice to be served, notwithstanding that the revenue-free estate may have been annexed to another estate as hereinbefore provided;

and the Collector shall further cause a notice containing the same particulars to be served in respect of such revenue-free estate on the holder of the other estate to which it is under the provisions of section 85 annexed.

Collector may revoke orders passed under section 85.

90. The Collector may at any time, with the sanction of the Commissioner, revoke any order passed under section 85, and shall give notice of such revocation both to the holder of the revenue-free estate affected and to the holder of the other estate to which such revenue-free estate was annexed.

CHAPTER VII.

MISCELLANEOUS.

Collector may

91. The Collector, with the sanction of the Board of Revenue, may

appoint such establishments as may be required for making valuations and re-valuations under this Act, for making collections, recovering arrears, keeping accounts connected therewith, and generally for all purposes connected with such valuations, re-valuations, collections and recoveries, and other purposes of this Act, and may incur such other expenses as are requisite for such purposes; and the payment of such establishments and other charges on bills signed by the Collector shall be the first charge on the district road fund.

appoint certain establishments.

92. For the purpose of making any valuation of lands directed by this Part, the Collector shall exercise the powers vested in Collectors by clause I of section 23 and clause I of section 24 of Regulation VII of 1822,[a] except so far as the said clauses authorize any enquiry into rights or interests attaching to such lands.

Powers of Collector in making valuation.

93. Every valuation under this Part shall be open to revision by the Commissioner or Board of Revenue, and not otherwise.

Commissioner of Board may revise valuation.

94. Any person who is bound to make any return under this Part shall be deemed to be legally bound to give notice and to furnish information to a public servant in respect of the same. If the Collector shall see ground for believing that any return made is false, he may prosecute the maker accordingly. And, if the person so prosecuted is convicted, the Collector may proceed to make a valuation of the lands mentioned in such return by such ways and means as to him shall seem expedient.

False returns.

95. Every return filed by or on behalf of any person in pursuance of the provisions of this Part shall bear the signature and address of such person, or his authorized agent, and shall be admissible in evidence against such person, but shall not be admissible in his favour.

Returns evidence against the maker only.

96. Every notice under this Part required to be served, except as otherwise expressly provided, may be served—

Service of notices under this Part.

(1) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person resides, or by delivering the said notice to any agent authorized to appear generally for the person to whom such notice is directed; or

(2) by sending a registered letter containing such notice directed to the said person at his usual place of abode or to the place where he may be known to reside; or

(3) by posting a copy of the notice at the mal-kachahri of the estate or

[a] See Vol. I, pp. 202, 203.

tenure to which the notice relates, or, if no such mal-kachahri be found, on some conspicuous place on such estate or tenure: and, in the case of estates paying their annual revenue by four instalments, by delivering another copy thereof to the agent who shall have paid an instalment of revenue next after the preparation of such notice. In all cases where two or more persons are holders of an estate or tenure, service of notice under this clause shall be deemed to be good and sufficient service on each and all of such persons.

Costs of service.

97. The costs of service of every notice and process by this Act required to be served shall in the first instance be defrayed from the district road fund, and, subject to such rules as may be made by the Board of Revenue under section 106, shall be recoverable either from the person to whom such notice or process is addressed, or from the person owing to whose default such notice or process is issued, as the Collector may think fit; and every such amount shall be deemed to be due to the Collector, but when levied by the Collector shall be credited to the district road fund:

No costs to be recovered for certain notices.

Provided that no costs or other expenses whatever shall be recovered from any person in respect of the publication or issue of any proclamation or notice calling for any return, or giving intimation of any amount payable by any person as cess under this Act other than notices of demand to pay any amount of cess which has become due.

Dues under the Act to be levied as public demand.

98. Every amount due, or which may become due, to any Collector under the provisions of this Act in respect of any arrears of cess, of any expenses incurred, of any fee or costs payable, of any notices served, of any fines imposed, or on any other account, may be realized by such Collector by any process provided by any law[a] for the time being in force for the realization of public demands; and shall be deemed to be a public demand under such law:

Provided that the [b]district road committee[b] shall indemnify the Collector of the district for all expenses incurred, and for all costs and damages for which such Collector may become liable (whether in connection with suits before the Civil Courts or otherwise) in respect of any proceedings for the recovery of any such dues as aforesaid.

Collector may recover dues out of rent.

99. Instead of proceeding as provided by the last preceding section for the recovery of any sum due under this Act, or if after so proceeding the Collector shall have failed to find property belonging to the person from whom

[a] See Act VII of 1880, *supra*, p. 515.

[b-b] In districts in which the Bengal Local Self-government Act of 1885 is in force, the words "district road fund" have been substituted in s. 98 for "district road committee"—see Ben. Act III of 1885, s. 2 and Sch. II, *infra*.

any such sum is due, by the sale of which such sum may be fully recovered, the Collector may, if he see fit, after recording his opinion to that effect, cause a notification in form in Schedule F contained to be issued for the estate or tenure in respect of which any such amount is due. Such notification shall be published by beat of drum in every village containing any land to which such notification relates, and a copy thereof shall be posted in a conspicuous place in every such village and at the mal-kachahri of the estate or tenure to which such notification relates, if such kachahri be found.

Every payment of rent, save and except to the Collector or some person by him thereunto appointed, made after such publication, until further order from the Collector, shall be null and void;

and the Collector may recover by any process of law for the time being in force, by which he might recover rent due to the Government from a tenant in an estate which is managed directly by the Collector, the rent then or thereafter to become due from any occupier, tenure-holder, under-tenant or raiyat on the estate or tenure in respect of which the notification has been issued, until the amount due to the Collector together with all costs shall be satisfied, whereupon the said notification shall be revoked.

The receipt of the Collector in respect of all sums paid to him as rent or so recovered shall be, to the extent of such sums, a valid discharge in respect of rent due by the occupier, tenure-holder, under-tenant or raiyat to whom such receipt is given.

Collector's claim to have priority.

In case the Collector shall see fit so to proceed, the claim for arrears of road cess and public works cess due from any estate or tenure in respect of which a notification has been issued as above provided shall have priority over any other demand or claim or lien existing thereupon other than the demand of Government-revenue.

Lieutenant-Governor may invest any person with Collector's powers.

100. The Lieutenant-Governor may at any time invest any person with the powers of a Collector under this Part to be exercised by such person under the control or supervision of the Collector, or independently of such control and supervision, as the Lieutenant-Governor shall direct.

Collector may delegate powers.

101. The Collector may, with the sanction of the Commissioner, delegate all or any of his powers and functions under this Part to be exercised, under the control and supervision of the Collector, by any Deputy Collector, Assistant Collector, Sub-Deputy Collector or other officer of like rank:

Provided that every order passed by such Deputy Collector, Assistant Collector, Sub-Deputy Collector or other officer shall be appealable to the Collector within fifteen days of such order being passed.

Appeals against valuation.

102. Every person who shall deem himself to be aggrieved by any valuation made by a Collector under the provisions of sections 75 or 76 may, within one month after the issue of the notice mentioned in section 78,

and every person who shall deem himself to be aggrieved by any valuation made by the Collector under the provisions of any other section of this Part, may, within one month after the posting up of a copy of the valuation-roll as mentioned in section 35,

prefer his objections to the Collector, and if such objections, or any of them, are disallowed, may, within one month of such disallowance, appeal to the Commissioner against such valuation, and the decision of the Commissioner shall be final.

Orders for levy of fine appealable.

103. Every order for the levy of a fine or of expenses passed by a Collector under this Act shall be appealable to the Commissioner within one month from the service of the first process for the levy of such fine or expenses. Except as otherwise provided in section 18, pending such appeal, and until the order of the Commissioner, which shall be final, all process for such levy shall be discontinued.

Orders appealable to Commissioner.

104. Every order passed by the Collector under sections 19, 20, 26, 50, 51, 53, 85, 98 or 99 shall be appealable to the Commissioner within one month from the date of such order.

Collector's proceedings subject to supervision of Commissioner and Board.

105. Notwithstanding anything hereinbefore contained, all proceedings of the Collector or of any officer of a lower grade under this Part shall be subject to the general control and supervision of the Commissioner and of the Board of Revenue, and all such proceedings of the Commissioner shall be subject to the general control and supervision of the Board of Revenue.

Board may make rules.

106. The Board of Revenue may from time to time make, and, when made, from time to time alter, add to or cancel, any rules—

(*a*) prescribing forms for the notices, returns and valuation-rolls required by this Part to be issued or made;

(*b*) prescribing the amounts which shall be levied in respect of the issue of each notice and process under this Part, and regulating the recovery thereof under section 97;

(*c*) prescribing the amount of copying fee to be levied in respect of supplying extracts and copies of returns and valuation-rolls as provided in section 34;

(*d*) apportioning the amount of the cesses for the payment of which the respective holders of the several shares of an estate in respect of which separate accounts are kept shall be primarily liable under section 44;

(*e*) regulating the opening, keeping and closing of separate accounts in respect of amounts of cess payable by recorded shareholders in revenue-free estates as provided in section 46;

(*f*) regulating the proceedings of the Collectors under Chapter V;

and otherwise providing for the proper execution of this Act in respect of valuations of the assessment and of the levy of the cesses and other sums due under the same.

All rights in immoveable property saved unless affected by this Act.

107. Nothing in this Part contained, and nothing done in accordance with this Act, shall be deemed to affect the rights of any person in respect of any immoveable property or of any interest therein except as otherwise expressly provided in this Act.

PART III.

CONSTITUTION AND ADMINISTRATION OF THE DISTRICT ROAD FUND.

CHAPTER VIII.

CONSTITUTION AND APPLICATION OF THE DISTRICT ROAD FUND.

Constitution of district road fund.

108. The district road fund of every district under this Act shall consist of the amount produced by the road cess,

of all sums levied or recovered as fines, penalties or otherwise in respect of the cesses under this Act [a]not being interest levied in respect of public works cess,[a]

of all sums assigned by the Government thereto, whether as a contribution from the proceeds of the public works cess towards the expenses of assessing and collecting such cess jointly with the road cess or otherwise, [b]and

of all sums whatsoever which may be at the disposal of the District Road Committee as hereinafter appointed.[b]

[a-a] These words in s. 108 have been inserted by Ben. Act II of 1881, s. 10—see Ben. Act II of 1881, s. 10, *infra*.

[b-b] These words in section 108 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch. II, *infra*.

Application of district road fund.

109.[a] The district road fund of every district shall be applicable to the following objects and in the following order :—

Firstly.—To the payment of the cost of establishments entertained and expenses incurred by the Collector as mentioned in section 91 ;

to the indemnification of the Collector with the sanction of the Commissioner for any other costs or damages which he may have incurred, or for which he may have become liable in the course of the proceedings for the assessment and collection of the cesses under this Act ;

and to the payment of such sums as may be determined by the Lieutenant-Governor for the purposes mentioned in section 181, subject to the limit imposed in that section :

Secondly.—To the payment of establishments entertained and expenses incurred by the district road committee for the purposes of this Act, and of any leave-allowances, gratuities or pensions which may be payable under this Act :

Thirdly.—To the payment of any sums which the committee may under this Act from time to time have undertaken to pay as interest on capital expended on any works which may directly improve the means of communication within the district or between the district and adjacent districts :

Fourthly.—To the repair and maintenance of roads, bridges, water-channels and other means and appliances for facilitating communications which have been taken charge of by the committee under this Act, or towards which they may have agreed to contribute :

Fifthly.—To the construction of new roads, bridges, water-channels and other means of communication ;

to the construction, provision, repair and maintenance of any means and appliances for facilitating communication within the district or between the

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[a] In districts in which the Bengal Local Self-government Act of 1885 is in force, the following has been substituted for s. 109 (see Ben. Act III of 1885, s. 2 and Sch. II, *infra*) :—

Application of district road fund.

"109. The district road fund of every district shall be applicable to the following objects and in the following order :—

Firstly.—To the payment of the cost of establishments entertained and expenses incurred by the Collector under section 91.

Secondly.—To the indemnification of the Collector, with the sanction of the Commissioner, for any other costs or damages which he may have incurred, or for which he may have become liable, in the course of the proceedings for the assessment and collection of the cesses under this Act.

And the balance, after payment of such expenses, shall be credited to the district fund of the district."

district and adjacent districts which the committee may determine to construct or to take charge of, or towards which they may determine to contribute;

to the planting of trees by the roadside; and

to the construction and maintenance of any means and appliances for improving the supply of drinking-water, or for providing or improving drainage: and

Sixthly.—To investment in any local debenture loans issued by the Government of India or the Lieutenant-Governor for the construction of productive works, which may directly improve the means of communication within the district, or between the district and adjacent districts:

Provided— Provisoes.

(1) that no sum shall be expended from the district road fund in the construction of any channel for the purposes of irrigation,

or for the purposes of drainage connected with any irrigation-works in charge of public officers,

or for the improvement or maintenance of any water-channel on which tolls are levied, when the proceeds of such tolls are not paid into the district road fund;

(2) that no part of the district road fund of any district shall be applied to the construction or maintenance of any road within any first or second class municipality under the Bengal Municipal Act, 1884,[a] unless such road shall have been expressly excluded from the operation of the said Act under section 32 thereof; and

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(3) that no part of the district road fund of any district shall be expended on any work or for any purpose without the limits of such district, unless the special sanction of the Lieutenant-Governor to such expenditure shall have been obtained, as being for the benefit of the district charged.

110.[b] With the sanction of the Lieutenant-Governor, the committee may from time to time undertake to guarantee the annual payment from the district road fund of such sums as they shall think fit, as interest on capital expended on any works which may directly improve the means of communication within the district, or between the district and other districts. Committee may guarantee sums for district road fund as interest on capital.

111.[b] Whenever any works to which any portion of the road fund of any district is applicable under the last preceding section extend over more than Lieutenant-Governor may apportion

[a] See Ben. Act III of 1884, s. 2, *infra*.

[b] Ss. 110 and 111 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch. I, *infra*.

costs of works extending over more than one district.

one district, the Lieutenant-Governor may decide the proportions in which the road fund of each district concerned shall contribute towards the cost or interest upon the cost of such works.

CHAPTER IX.

THE DISTRICT ROAD COMMITTEE.

Constitution of district road committee.

112.[a] For the administration of the district road fund and for the construction, repair and maintenance of district roads, bridges, water-channels and other works as aforesaid under this Act, the Lieutenant-Governor shall from time to time appoint, or cause to be elected, under such rules in regard to qualification, election and discharge as may by him be prescribed, any number of the payers of road cess of such district, their managers or agents, to be members of a district road committee.

Members may hold office for five years. Resignation of member.

113.[a] Every member of the committee may hold office for five years from the date of his appointment or election, and the Lieutenant-Governor may at any time before the expiration of such term of five years accept the resignation of such member.

Removal of member.

114.[a] The Lieutenant-Governor may remove any member appointed or elected under this Act, if such member shall have been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct.

Member who neglects to attend meetings, or is sentenced to imprisonment, to cease to be member.

115.[a] Any member who, without having obtained permission from the committee, shall have omitted to attend six consecutive meetings of the committee,

and any member who shall have been sentenced to imprisonment,

shall cease to be a member of the committee.

Appointment of *ex officio* members.

116.[a] In addition to the members appointed or elected as aforesaid, the Lieutenant-Governor may appoint any officer of Government to be a member of the committee, and may direct, by a writing signed by him, that all persons holding the offices in such writing specified shall be *ex officio* members of the committee for any district in which they exercise the said offices, and in which this Act shall have come into force:

Members holding salaried offices under Government not to exceed one-third.

Provided that the number of members of the committee holding salaried offices under the Government shall not be more than one-third of the total number of the committee.

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[a] Ss. 112-116 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch. I, *infra*.

117.[a] No act or proceedings of the committee shall be invalidated by reason that at the time of doing such act or taking such proceedings the number of mem bersof the committee as then existing, who were holding salaried offices under the Government, was greater than the proportion mentioned in the last preceding section; and no act or proceedings of any meeting shall be invalidated by reason of the proportion of members holding such salaried offices as aforesaid present at the same being greater than as provided by the said section.

Proceedings not to be invalidated by reason of excessive proportion of officials.

Their Mode of transacting Business.

118.[a] The Collector of the district shall be the chairman of the committee, and the vice-chairman shall be appointed as provided in section 129.

Chairman and vice-chairman.

119.[a] The committee shall have an office within the district in and for which they shall have been appointed, and shall meet for the transaction of business at least once in every quarter of a year.

Committee to have an office.

120.[a] There shall be two kinds of meetings for the transaction of business, namely, special meetings and ordinary meetings.

Two kinds of meetings.

121.[a] Meetings of the following descriptions shall be special meetings:—

What are special meetings.

(1) any meeting convened by the chairman under section 123;

(2) for the election of a vice-chairman under section 129;

(3) for determining the salary of the engineer under section 131;

(4) for the election of an engineer under section 132;

(5) for determining the details of establishment, and the salaries to be attached to each office, under section 133;

(6) for making rules for leave of absence under section 134, and for pensions and gratuities under section 138;

(7) for considering and passing the general statement under section 141 or any revised or supplemental statement under section 143;

(8) for preparing and framing an estimate of income and expenditure, and for determining the rate of road cess for the coming year under sections 146 and 148;

(9) for amending any such estimate under section 157;

(10) for receiving and considering the annual report and accounts under section 179.

All other meetings shall be ordinary meetings.

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[a] Ss. 117-121 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch. I, *infra*.

President at meetings.

122.[a] The chairman, or, in case of his absence at the time appointed for the meeting, the vice-chairman, shall preside at every meeting of the committee. In the absence of both the chairman or vice-chairman, the members present may choose one of their number to be president of such meeting.

Meeting to be called on requisition.

123.[a] The chairman, or, in case of his absence, the vice-chairman, may, whenever he thinks fit, and shall, upon a requisition made in writing and signed by not less than one-third of the members, convene a meeting.

Notice of meeting.

124.[a] At least ten days' notice shall be given of every meeting. Every notice shall state the business to be transacted at the meeting proposed to be called; and no business other than that so stated shall be transacted at such meeting, except with the permission of the meeting.

Quorum.

125.[a] (1) No business shall be transacted at any special meeting unless at least one-fourth of the total number of members forming the committee at the time of the meeting are present at the commencement and close of such business; and no business shall be transacted at an ordinary meeting unless at least three members are so present.

Delegation of powers to sub-committee.

(2) The committee may delegate any of their powers to sub-committees consisting of such member or members of their body as they think fit. Any, sub-committee so formed shall, in the exercise of the powers delegated conform to any regulations that may be imposed on them by the committee.

Adjournment, voting, &c. of committee.

(3) The committee may hold meetings and adjourn as they think proper. Questions at any meeting shall be determined by a majority of votes of the members present, and, in case of an equal division of votes, the president shall have a second or casting vote.

Adjourned meeting.

126.[a] If at the time appointed for a special meeting, or within one hour thereafter, a quorum is not present, the meeting shall stand adjourned till some future day to be appointed by the chairman or vice-chairman of the committee, and ten days' notice of such adjourned meeting shall be given. The members present at such adjourned meeting shall form a quorum, whatever their number may be.

Minute-book to be kept.

127.[a] The minutes of the proceedings of every meeting shall be recorded in a book to be kept for that purpose in the office of the committee, and any person resident in, or owning or holding land in, the district may at all reasonable times inspect and examine such book without payment of any fee,

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[a] Ss. 122-127 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch. I, *infra*.

and may obtain a certified copy of any extract therefrom on payment of such fees as the Lieutenant-Governor may direct.

At the request of any member of the committee who is not acquainted with the English language, the chairman shall cause to be delivered to such member an abstract of the minutes of any meeting in the vernacular of the district.

128.[a] All correspondence between the committee and the Lieutenant-Governor shall pass through the office of the Commissioner, who in all things under this Part shall be subject to the control and supervision of the Lieutenant-Governor. Correspondence between committee and Lieutenant-Governor.

The committee shall furnish the Lieutenant-Governor and the Commissioner respectively with any information for which they may call connected with the duties imposed upon them by this Act. Committee to furnish information.

Their Vice-Chairman, Engineer and Establishment.

129.[a] The first meeting of the committee shall be convened by the chairman at such time as he shall think fit, and shall proceed to nominate one of the members of the committee to be vice-chairman of the committee, and shall submit to the Lieutenant-Governor the name of the person so nominated; whereupon the Lieutenant-Governor may, if he think fit, appoint such person to be vice-chairman of the committee, or may require the committee to nominate and to submit to him the name of some other person, and whenever the office of vice-chairman shall be vacant a vice-chairman shall be nominated and appointed in the manner above mentioned: Appointment of vice-chairman.

Provided that whenever the office of vice-chairman shall become vacant, the chairman may, with the approval of the Commissioner, appoint any member of the committee to be vice-chairman thereof *ad interim* until the vacancy shall have been filled up by appointment as above provided. Vice-chairman may be appointed *ad interim*.

The vice-chairman may hold office for a period not exceeding two years, and at the expiration of that time may be re-nominated by the committee and re-appointed to the office by the Lieutenant-Governor. Vice-chairman may hold office for two years.

130.[a] The Lieutenant-Governor may, if he thinks fit, upon the recomendation of two-thirds of the members voting at any special meeting, remove the vice-chairman, and any member entitled to vote may give a proxy in writing to any other member for the above purpose. Removal of vice-chairman.

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[a] Ss. 128-130 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch. I, *infra*.

Proxies allowed.

Such proxy shall be produced at the time of voting, and shall entitle the member to whom it is given to vote as authorized by the tenor of such proxy.

Salary of district engineer.

131.[a] The committee at a special meeting shall determine the salary which they are prepared to give to the district engineer, and shall report the same to the Lieutenant-Governor, who may approve of such salary, or require the committee to increase or to reduce the same. In determining such salary regard shall be had in each district to the character of the works and the nature of the duties required therein. The salary so determined and approved may from time to time be altered by the committee with the approval of the Lieutenant-Governor.

Appointment of engineer.

132.[a] (1) Whenever the office of district engineer shall be vacant, the committee shall represent the occurrence of such vacancy to the Lieutenant-Governor, who shall thereupon cause a list of qualified officers not being less than three in number to be laid before the committee, and the committee shall proceed to elect a district engineer from the persons named in such list.

Existing appointments to hold good for two years only.

(2) All appointments of district engineers existing at the time of the commencement of this Act shall hold good for a period not exceeding two years from such commencement, and on the expiration of such time every office of district engineer to which the last appointment shall have been made before the commencement of this Act shall be deemed to be vacant, and a district engineer shall be appointed in manner above prescribed:

Provided that, if the Lieutenant-Governor and the committee are satisfied that no change is required, any person holding the appointment of district engineer at the time of the commencement of this Act may, with the sanction of the Lieutenant-Governor, be re-appointed by the committee to be district engineer.

Engineer may be suspended or dismissed by Lieutenant-Governor.

(3) The district engineer may be suspended, removed or dismissed from his office by the Lieutenant-Governor.

Establishments and salaries how to be fixed.

133.[a] The committee, subject to the limit of cost imposed by section 135, may, with the sanction of the Commissioner, determine, and from time to time alter, the details of the establishment of officers (other than the district engineer), clerks and servants to be employed by them or by any branch committee as hereinafter appointed, and the salary to be paid to each such officer, clerk or servant:

[a] Ss. 131-133 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch. I, *infra*.

Provided that no salary exceeding Rs. 200 a month shall be attached to any office without the express sanction of the Lieutenant-Governor.

Appointments to offices on the establishment so determined shall be made as follows.— **Appointments how to be made.**

to every office of which the salary does not exceed Rs. 50 per mensem by the chairman of the committee or of the branch committee, as the case may be;

to every office of which the salary exceeds such amount, by the committee or the branch committee, as the case may be, with the approval of the Commissioner.

Any such officer, clerk or servant as aforesaid may be suspended or dismissed by the authority appointing him, subject to an appeal to the Commissioner, whose decision shall be final.

134.[a] The committee shall make such rules as to leave of absence and absentee allowances as they from time to time may think fit for their own officers and servants, as well as for those of any branch committee: **Leave of absence to officers.**

Provided that, in the case of district engineers drawing a salary of Rs. 200 or upwards per mensem, leave of absence on medical certificate may be granted by the Lieutenant-Governor in accordance with the rules contained in Supplement F of the Civil Leave Code, or any other rules[b] for the time being in force for uncovenanted officers of Government, and that no other leave of absence shall be granted to a district engineer by the committee without the sanction of the Lieutenant-Governor.

135.[a] The agregate salaries and absentee allowances of the engineers, officers, clerks and servants aforesaid, entertained by any district road committee and by all branch committees in any district, together with the expenses of the Collector's establishments under section 91, and the amount which such district road committee is required to pay under section 181, shall not for any one year, without the express sanction of the Lieutenant-Governor, exceed one-fourth of the income of the committee for the said year exclusive of the balance of the previous year. **Salaries not to exceed one-fourth of income.**

136.[a] The Lieutenant-Governor may, on the application of two-thirds of the committees in any division, appoint a divisional superintendent of works, with the necessary office establishment, for the control and supervision of the executive works establishment in all districts of such division, and may **Appointment of divisional superintendent of works.**

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[a] Ss. 134-136 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch. I, *infra*.

[b] See now the Civil Service Regulations, 1889.

determine the proportion of the cost payable by each district in the division in respect of the same.

Appointment of superintendent of works for group of districts.

137.[a] The Lieutenant-Governor may, on the application of any number of districts, whether forming part of the same division or otherwise, appoint a superintendent of works and establishment as aforesaid for such districts, and determine the proportion of the cost payable by each such district in respect of the same.

Pensions, gratuities, &c.

138.[a] The committee may, with the approval of the Lieutenant-Governor, make rules for pensions and gratuities to be granted and paid out of the district road fund to their officers and servants, and to those of any branch committee, and to the members of any establishment appointed by the Collector of the district under section 91, and may from time to time, with such approval, repeal, alter or add to such rules:

Provided that no officer shall be entitled to any pension or gratuity under this Act from the road fund of any district in respect of any period during which he was not serving under the committee of such district, or under the Collector of such district on an establishment entertained under section 91 for the purposes of this Act:

Provided also that no officer lent by Government and contributing from his salary to any pension fund shall be entitled to claim any pension from the district road fund.

Their Functions.

Mode of executing contracts.

139.[a] The Committee may through their chairman or vice-chairman enter into and execute any contract necessary for the purposes of this Act:

Provided that every contract made on behalf of the committee in respect of any sum exceeding five hundred rupees, or which shall involve a value exceeding five hundred rupees, shall be sanctioned by the committee and shall be in writing and signed by at least two of the members of the committee, one of whom shall be the chairman or vice-chairman.

Unless so executed, such contract shall not be binding on the committee.

Penalty on members and officers being pecuniarily interested in contracts.

140.[a] No member, officer or servant of the committee shall be in anywise pecuniarily interested in any contract or work made with, or executed for, the committee, and, if any such member, officer or servant be so interested, he shall be incapable of afterwards continuing to be a member of the committee or holding or continuing in any office or employment under the

[a] Ss 137-140 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch. I, *infra*.

committee, and shall be liable on conviction thereof to a fine of five hundred rupees:

Provided that nothing in this section shall apply to any person by reason only of his being a shareholder in any company incorporated by Act of Parliament or by Royal Charter or otherwise, or registered under any Act for the registration of joint stock companies, passed by the Parliament of the United Kingdom, or by any Indian Legislature, which may enter into any contract with the committee, or execute any work for the committee, if such person shall, at or before the time of any such contract being made or tendered for, declare to the committee the extent of his interest in such company, and, if he be an officer or servant of the committee, obtain the sanction of the committee to his continuing to be such officer or servant. Exception.

141.[a] On the commencement of this Act in any district or part of a district, the vice-chairman, within three months after his election, shall cause to be prepared a general statement of the roads, bridges, water-channels and other means of communication to be brought within the operation of this Act within the three years then next ensuing, and the committee shall, at some meeting to be held within one month after the submission of such statement or at any adjourned meeting, take such statement into consideration, and may pass such statement, or may make such alteration or addition therein as it shall think fit. Such statement shall be prepared with due advertence to the provisions of section 109. Statement of communications to be prepared.

142.[a] The committee shall forward the statement which shall be passed as provided in the last preceding section to the Commissioner for transmission to the Lieutenant-Governor. Statement to be forwarded to Commissioner.

143.[a] The vice-chairman may in any subsequent year cause to be prepared a supplemental statement of the kind mentioned in section 141 or a revised statement, and every such supplemental or revised statement shall be subject to the provisions of the last two preceding sections with respect to the statement therein mentioned. Supplemental statement.

144.[a] The Lieutenant-Governor may at any time order that any road, bridge, water-channel or other means of communication as abovementioned be included in, added to or excluded from, any statement or supplemental or revised statement prepared as mentioned in section 141 or 143. Lieutenant-Governor may include or exclude any works in or from statement.

Estimates: Determination of the Rate for the Year, and Publication thereof.

145.[a] The Collector shall, at such date as the committee shall fix, prepare Collector to

[a] Ss. 141-145 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch. I, *infra*.

submit to committee annual statement of estimated assets for coming year.

and deliver to the committee a statement showing under separate heads the estimated proceeds for the year then next ensuing of the road cess at the maximum rate hereinbefore provided, and also of any sum and of any sources of revenue for the said year which the Lieutenant-Governor shall have assigned to the said district, or which may be otherwise at the disposal of the committee.

Annual estimate to be prepared.

146.[a] The committee shall, at some meeting to be held in such month as the Lieutenant-Governor shall determine, prepare an estimate of the income and expenditure of the committee for the year then next ensuing.

Works not to be executed until estimates passed or execution sanctioned.

147.[a] Notwithstanding that any work has been included in such estimate, the committee shall not begin the execution of any work until detailed specifications and estimates of the same have been passed, or until the execution of the work shall have been otherwise sanctioned by any authority whose sanction to the execution of such work is required under any rules made by the Lieutenant-Governor on that behalf as hereinafter provided.

Committee to determine rate of road cess.

148.[a] In making the estimate of income as by the last section required, the committee shall take into consideration any sum and the proceeds of any source of revenue which shall have been placed at their disposal by the Lieutenant-Governor, or which may otherwise be available to them, and any unexpended balance of the district road fund of the previous year which is expected to be available for expenditure in the year of estimate; and shall proceed to determine the rate at which it will be necessary to levy the road cess for the last-mentioned year, so as to provide the further amount estimated to be required for expenditure in the said year.

Limit of estimate.

149.[a] The total amount proposed to be expended in any one year in and by any estimate prepared as required by section 146 shall not exceed the proceeds estimated to be at the disposal of the committee for that year from the road cess, if levied within the district at the maximum rate at which such cess is leviable as mentioned in section 6, together with any sum, and the annual proceeds of any source of revenue which shall have been placed by the Lieutenant-Governor at the disposal of the committee, or which may be otherwise at their disposal, and with the estimated unexpended balance of the district road fund of the previous year as abovementioned.

Commissioner may revise estimate.

150.[a] Every such estimate prepared by the committee under section 146 shall be forwarded through the Collector of the district to the Commissioner,

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[a] Ss 146-150 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch. I, *infra*.

and the Commissioner may approve such estimate and the rate determined by the committee.

Commissioner may under certain circumstances alter estimate.

151.[a] If such estimate shall have been approved by any number, being less than two-thirds, of the members of the committee present at the meeting at which such estimate was adopted, the Commissioner may, before approving of such estimate, make such alterations as he shall think fit in the details or total of such estimate, or may return such estimate to the committee with instructions to make any such alterations in such details or total:

Provided that the Commissioner shall not make, and shall not require the committee to make, otherwise than with their own consent, any such alterations as shall have the effect of raising the total of such estimate above the total of the sum estimated to be at the disposal of the committee for expenditure during the year in question, the cess being levied at the rate which may have been determined for such year by the committee under section 148:

On receipt of such instructions the committee shall proceed to make such alterations, and shall re-submit the estimate to the Commissioner, who shall thereupon approve of the estimate and of the rate determined by the committee.

Procedure where estimate has been approved by not less than two-thirds of committee.

152.[a] (1) If any estimate prepared under section 146 shall have been approved by any number, not being less than two-thirds, of the members of the committee present at the meeting at which such estimate was adopted, the Commissioner may, before approving of such estimate, make a communication to the committee, bringing to their notice any alterations which it appears to him to be desirable to make in the details or total of such estimate;

and, on receipt of such communication, the committee shall proceed to re-consider such suggestions, and may either—

(*a*) adopt such suggestions or any of them and revise their estimate accordingly, and, if necessary, the rate determined by them as that at which the cess shall be leviable during the coming year, and submit such revised estimate and rate for the sanction of the Commissioner; or

(*b*) may adhere to their original estimate, and re-submit it to the Commissioner with their reasons for adhering to the same.

(2) On receipt of such estimate so re-submitted, the Commissioner may either sanction the estimate and rate as determined by the committee, or may

[a] Ss 151 and 152 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch. I, *infra*.

submit such estimate, together with the reasons recorded by the committee for adhering to the same, to the Lieutenant-Governor.

When estimate is submitted by Commissioner, Lieutenant-Governor may pass orders thereon.

153.[a] Whenever any such estimate shall be so submitted by the Commissioner, the Lieutenant-Governor may approve of such estimate, or pass such orders as he shall think fit, in respect to the alteration of the details or of the total of such estimate:

Provided that the Lieutenant-Governor shall not make any such alterations, or require the committee to make any such alterations, as shall have the effect of raising the total of such estimate above the total of the sum estimated to be at the disposal of the committee for expenditure during the year in question, the cess being levied at the rate which may have been determined for such year by the committee under section 148, unless such rate shall in the opinion of the Lieutenant-Governor be insufficient to provide for the proper maintenance of such works as are contained in the statement prepared under section 141 or 143.

If it shall appear to the Lieutenant-Governor that the proceeds of the cess at the rate so determined will not suffice for such purpose, the Lieutenant-Governor may order that the cess shall be levied for the year in question at such rate as he may deem sufficient for such purpose, subject to the limit in section 6 provided.

Rate determined to be reported to Lieutenant-Governor.

154.[a] When the estimate prepared and the rate determined by the committee shall have been approved by the Commissioner under sections 150, 151 or 152, the rate so determined and approved shall be reported by the Commissioner to the Lieutenant-Governor, who shall forthwith cause the same to be published in the Calcutta Gazette.

Rate to be published in Gazette.

155.[a] When the Lieutenant-Governor shall under section 153 have approved of any estimate submitted to him as provided by section 152 and of the rate determined by the committee under section 148, or under clause (*a*) of section 152 in connection with such estimate, or when the Lieutenant-Governor shall under section 153 have ordered that the cess shall be levied at any other rate, the Lieutenant-Governor shall cause such rate as finally fixed by him to be published in the Calcutta Gazette.

Rate published to be rate in force for year.

156.[a] The rate published in the said Gazette as provided in either of the last two preceding sections shall be the rate at which the road cess shall be leviable in the district for the year in respect of which such rate is so published, and the Collector of the district shall cause such rate to be published

[a] Ss. 153-156 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch. I, *infra*.

and proclaimed throughout the district and notice be given thereof as in section 40 is provided.

157.[a] Any estimate prepared under section 146 and approved as hereinbefore provided may be amended or revised at any time with the sanction of the authority who originally approved of such estimate: *Estimates may be amended.*

Provided that the total of the estimate of expenditure as amended shall not exceed the total of the sums estimated to be available for expenditure during the year.

CHAPTER X.

Branch Committees.

158.[a] In any district to which this Act shall have been extended, the Lieutenant-Governor may, in addition to a district road committee, form as many branch committees as he shall think fit for carrying out the purposes of this Act, and shall appoint a chairman and vice-chairman thereof respectively, and shall define the portion of such district within which any branch committee shall exercise the powers conferred and discharge the duties imposed upon them by this Act: *Branch committees.*

Provided that, whenever the office of vice-chairman of any branch committee shall become vacant, the chairman thereof may, with the approval of the Commissioner, appoint any member of such branch committee to be vice-chairman thereof *ad interim* until the vacancy shall have been filled up by the Lieutenant-Governor.

159.[a] The provisions of sections 112 to 117 (both inclusive), 119, 122 to 127 (both inclusive), 139 and 140, respecting district road committees, shall apply, so far as the same are applicable, to such branch committees. *Sections which apply to them.*

160.[a] The Lieutenant-Governor may remove the chairman or vice-chairman of a branch committee whenever he shall think fit. *Chairman and vice-chairman may be removed.*

161.[a] Every branch committee may from time to time select any member thereof to be an additional member of the district road committee, and such member shall thereupon, for the space of one year, become a member of the said committee. *Member of branch committee may be additional member of district committee.*

162.[a] Every such branch committee shall be, except as hereinafter provided, subordinate to the district road committee, and shall forward to the *Branch committees' statements.*

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[a] Ss. 157-162 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch. I, *infra*.

committee such statements, suggestions and estimates as it may think fit, and the committee shall consider and have regard to such statements, suggestions and estimates in framing the statements and estimates hereinbefore directed.

Branch committee may require statement to be submitted to Lieutenant-Governor.

163.[a] Any such branch committee may require that any such statement, suggestion or estimate shall be submitted to the Commissioner for his consideration and for that of the Lieutenant-Governor.

Funds of the branch committee.

164.[a] The Lieutenant-Governor may in each year assign to any branch committee so much of the road fund levied for that year in the district, for portion of which such branch committee is appointed, as he may think fit, not exceeding the total estimated proceeds of the road cess leviable within the said portion of the district; and, further, may allot to the said branch committee so much of the income of the district road fund from other sources as he shall think fit.

Special powers of the branch committee.

165.[a] The Lieutenant-Governor may in any such case declare that the branch committee shall have the full powers of a district road committee within such portion of the district, and, whenever the Lieutenant-Governor shall so have declared, the district road committee shall, within such portion of the district, cease to exercise powers and functions under sections 133, 139, 141, 142, 143 and 146. Such powers shall then vest in the branch committee; and the provisions of sections 120, 121 (with the exception of clauses (2), (3), (4) and (6), 128, 142, 144 and 147, shall apply to the proceedings of such branch committee, provided that all correspondence with the Commissioner shall be submitted through the Collector of the district; in any case in which the Lieutenant-Governor may declare that a branch committee shall have the powers of a district road committee for specified works or specified purposes only, the powers of the district road committee in respect of such works and such purposes only shall cease within the said portion of the district, and such powers shall then vest in the branch committee.

Their estimates.

166.[a] Every branch committee so vested with powers as in the last preceding section provided shall prepare an estimate in regard to their annual income and expenditure similar to that required by section 146 to be prepared by the district road committee.

Limit of estimates.

167.[a] The provisions of sections 150, 151, 152, 153 and 157, shall, as far as they are applicable, apply to such estimate:

[a] Ss 163-167 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch. I, *infra*.

Provided that the aggregate amount to be expended by the branch committee in any year should not exceed the aggregate of the fund placed at their disposal for that year.

168.[a] The Lieutenant-Governor may at any time order that any of the functions hereafter mentioned or referred to in Chapter XI shall be discharged by any branch committee instead of by the district road committee in respect of any portion of the district for which such branch committee has been appointed.

Lieutenant-Governor may assign functions of Chapter XI to branch committee.

169.[a] The Lieutenant-Governor may at any time revoke an order forming any branch committee or an order declaring that a branch committee shall exercise the full powers or any special powers of a district road committee.

Lieutenant-Governor may revoke order forming branch committee.

CHAPTER XI.

Disbursement and Accounts of the District Road Fund.

170.[a] The district road fund shall be lodged with the Collector of the district, who shall keep a separate account thereof, and shall cause to be prepared an annual statement of such account, showing in detail therein all sums paid into and all disbursements made from the treasury on account of the district road fund during the year.

Collector to prepare annual statement of the district road fund.

After the appointment of any branch committee in a district, the Collector of the district shall in like manner keep a separate account of the fund placed at the disposal of such branch committee.

171.[a] All payments on account of the district road fund shall be made by the Collector out of the said fund upon cheques signed by the vice-chairman for sums not exceeding one hundred rupees. When the vice-chairman is absent or from any cause incapacitated from signing, the chairman may sign such cheques on behalf of the vice-chairman.

Payments on account of the district road fund.

Cheques for sums exceeding one hundred rupees shall be signed by the chairman and the vice-chairman. When the vice-chairman is absent or from any cause incapacitated from signing, such cheques shall be signed by any *ex officio* member of the committee other than the chairman, on behalf of such vice-chairman.

The word "chairman" in this section includes any officer for the time being in charge of the office of chairman under a written order from the chairman.

[a] Ss. 168-171 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch. I, *infra*.

Collector's monthly account.

172.[a] The Collector shall forward to the vice-chairman of every committee, as soon as possible after the close of each month, an account of his receipts and disbursements on account of the district road fund during such month.

Accounts of committee.

173.[a] Every committee shall keep regular and detailed accounts of the moneys received or applied by them under the provisions of this Act and of their application, and such accounts shall be, at all convenient times, open to the inspection of all members of the committee.

Committee to appoint a sub-committee to audit accounts.

174.[a] Every committee shall appoint a standing sub-committee, consisting of the vice-chairman and not less than two other members, for the audit of their accounts; and the accounts of each month shall be laid before the sub-committee as soon as possible after the close of such month; whereupon the said sub-committee shall proceed to audit the said accounts in such manner as the Lieutenant-Governor may direct, and to pass or to amend and correct the said accounts as may be necessary, and to pass them as so amended and corrected.

Sub-committee may call for vouchers and papers;

175.[a] For the purposes of every audit and examination of accounts under this Act, such sub-committee shall have power to call for all vouchers and papers which they may require.

and certify correctness of accounts.

176.[a] When such sub-committee shall have audited and passed the accounts of any month as above provided, they shall certify the result and the correctness of the accounts as passed by them in such form as the Lieutenant-Governor may direct.

Accounts to be submitted to officer directed by the Lieutenant-Governor.

177.[a] The accounts of each month, audited, passed and certified as in the last preceding section provided, shall be submitted by the committee, not later than the twenty-fifth day of the following month, to such officer as the Lieutenant-Governor may direct.

Vice-chairman to prepare account of receipts and a report.

178.[a] As soon as possible after the close of each year, the vice-chairman of every committee shall prepare a detailed account of the receipts and expenditure of the district road fund during such year; and also a report of the work done and in progress during such year, whether under the directions of the district road committee or of any branch committee other than a branch committee which has been vested with the full powers of a district road committee under section 165.

Accounts to be certified by sub-com-

179.[a] The annual accounts so prepared by the vice-chairman shall be examined and certified by the sub-committee of audit, and, after such examina-

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[a] Ss. 172-179 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch. I, *infra*.

tion and certification, shall be laid with the said annual report before a special meeting of the committee to be held within two months of the close of such year; and the committee shall submit a copy of the said account with a similar report to the Commissioner for transmission to the Lieutenant-Governor, who shall cause such accounts with an abstract of such report, together with such remarks as the Commissioner may have made thereon, to be published in the Calcutta Gazette.

mittee and transmitted to Lieutenant-Governor.

180.[a] Every district road committee may from time to time make, and when made, alter, add to or cancel, bye-laws not inconsistent with the provisions of this Act, for all or any of the following purposes, that is to say:—

The committee may make bye-laws with approval of Lieutenant-Governor.

(1) regulating the traffic and providing for the safety and convenience of passengers on any road, water-channel or other means of communication under the charge of the committee;

(2) providing for the preservation of such roads, water-channels and other means of communication, and of the trees planted by, or under the charge of, the committee.

On conviction before a Magistrate a fine may be imposed for the breach of any such bye-laws:

Fines.

Provided that no fine exceeds for any offence the sum of ten rupees or, in the case of a continuing offence, the sum of two rupees for every day during which such offence is continued.

Any bye-law so made, and every alteration of, addition to and cancellation of such bye-law, shall require the sanction of the Lieutenant-Governor;

and, on such sanction being given, such bye-law shall be published in the Calcutta Gazette and in the vernacular of the district, as the Lieutenant-Governor may direct;

Bye-laws to be published in Gazette.

and on such publication such bye-law shall have the force of law.

CHAPTER XII.

MISCELLANEOUS.

181.[a] The Lieutenant-Governor may from time to time direct that such establishments shall be entertained, and such expenses incurred, in the offices of the Board of Revenue, of the Commissioners of divisions and of the Super-

Lieutenant-Governor may give directions as to

[a] Ss. 180 and 181 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch. I, *infra*.

establishments, expenses, &c.

intending Engineers, in any other office of control, in any office of account and in any treasury, or that such special officers shall be employed and such expenses incurred by them, as may be necessary,

for the exercise of proper control over the proceedings of the Collectors and district road committees and branch committees in the discharge of their duties under this Act,

for the proper examination and checking of estimates furnished and accounts kept under this Act, and for the proper audit of such accounts,

and for the performance of the duties connected with the cash transactions of the district road committees:

and the Lieutenant-Governor may make rules providing for the recovery of the cost of the establishments so entertained, and the officers so employed, and of the expenses so incurred, from the several district road committees in such proportions as he may think fit:

Provided that the total amount which any district road committee is required to pay under this section shall not in any year exceed two per centum on the income of such committee for such year.

PART IV.

CHAPTER XIII.

GENERAL.

Lieutenant-Governor empowered to prescribe forms and rules.

182. The Lieutenant-Governor may from time to time make, and when made, from time to time alter, add to or cancel, any rules not inconsistent with the provisions of this Act,—

(*a*)* regulating the performance of the duties of the district road committees and branch committees, and of all persons employed under this Act, and in regard to the qualification, appointment, election and discharge of such persons;

(*b*)* prescribing the authorities by whom the execution of works of different classes respectively may be authorized and sanctioned;

(*c*)* prescribing forms for the estimates, accounts, reports and statements required by this Act to be kept or made by the district road committee;

* Cls. (*a*), (*b*) and (*c*) of s. 182 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch. I, *infra*.

(*d*) prescribing forms of accounts to be kept by the Collector under this Act;

(*e*)[a] providing for the submission and checking of any estimates or accounts and for the audit of such accounts as aforesaid;

(*f*) fixing the dates for payment of instalments of cess under sections 42 and 57;

(*g*)[a] determining the amount of fees to be levied for supplying copies of proceedings of any district road committee or branch committee as provided in section 127;

(*h*)[a] fixing the month in which the meeting mentioned in section 146 shall be held; and

(*i*) generally for the purposes of this Act.

Such rules shall be published in the Calcutta Gazette, and shall thereupon have the force of law.

SCHEDULE A.

Form of Return prescribed by Section 14.

Amount of Government revenue or rent payable by the estate or tenure:

Rs. A. P.

PART I.

District

Name by which the estate or tenure is known, and the number which it bears on the Collector's general register, or on any other register kept by the Collector—

Details of lands in the actual occupation or cultivation of the person submitting the return:—

1	2	3	4	
Pergunnah.	Name of village and thánd in which the lands are situate.	Area of land, [b]if known.[b]	Deduct area of land situate within any municipality.	Annual value of remaining land.

NOTE.[c]—In the body of this statement should be entered only nijjote lands and such uncultivated lands in the use and occupation of the maker of the return as are capable of assessment on their annual value.

[a] Cls. (*e*), (*g*) and (*h*) of s. 182 are repealed in districts in which the Bengal Local Self-government Act of 1885 is in force—see Ben. Act III of 1885, s. 2 and Sch I, *infra*.

[b-b] These words in the heading of column 3 of Part I have been inserted by Ben. Act II of 1881, s. 11—see Ben. Act II of 1881, s. 11, *infra*, p. 604.

[c] This note to Part I has been substituted for the original note by Ben. Act II of 1881, s. 11—see Ben. Act II of 1881, s. 11, *infra*, p. 604.

(*Schedule A.*)

PART II.

District

Name and number of estate or tenure as in Part I.

Details of lands held by cultivating raiyats paying direct to the persons submitting the return :—

1	2	3	4	5	6	7
Pergunnah.	Name of village and thánâ in which the lands are situate.	Name of raiyat, name of village, thánâ and district in which he resides.	Area occupied, *if known.*	Annual rent.	Deduct rent of land included in any municipality.	Balance of net rent assessable.

PART III.

District

Name and number of estate or tenure as in Part I.

Details of the tenure-holders paying to the person submitting the return :—

1	2	3	4	5	6	7	8
Name of tenure-holder and person paying rent for him borne on the books of holder of estate or tenure.	Name of village, thánâ and district in which such person resides.	Name of village and thánâ in which tenure is situated.	Name of village and thánâ in which malkachahri is situate.	Area, if known.	Annual rent paid by tenure-holder.	Deduct rent of land included in any municipality.	Balance of net rent assessable.

PART IV.

District

Name and number of estate or tenure as in Part I.

Details of lands included in the estate or tenure of the person submitting

** These words in the heading of column 4 of Part II have been added by Ben. Act II of 1881, s. 12—see Ben. Act II of 1881, s. 12, *infra*, p. 604.

the return which are held by others than himself, but for which no rent is paid :—

1	2	3	4	5	6	7
Pergunnah in which situate.	Name of village and thána in which situated.	Name of holder, and owner, if known.	Name of village, thána and district in which the holder resides.	Area, if known.	Deduct area of land included in any municipality.	Annual value of remaining land.

I, *X. Y. Z.*, do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

Signed_____.

N.B.—This return must be signed by the holder or his authorized agent, whose address must also be given.

SCHEDULE B.

Form No. I.

Form of Notice upon a Revenue-paying Estate or Rent-paying Tenure under Section 17.

District of

Notice under section 17 of the Cess Act, 1880.

The holders of estate or tenure (*description to be filled in*) in the district of and all others interested therein are hereby required to lodge in the office of the Collector of the said district a return, in the form hereunto annexed, of all lands comprised in such estate or tenure and the rents paid therefor. Such return must be signed by such holder or his authorized agent, and be so lodged within the time mentioned below under a penalty of a daily fine which may amount to fifty rupees on each such holder for every day after the expiry of such time or of any extended time which may be allowed by the Collector on application made to him, until such return shall be lodged. Notice is hereby given that no rents due to the holders of the said estate (*or* tenure) can be recovered by suit after such time until such return be so lodged.

If the annual amount of revenue or rent payable on the estate or tenure to which this notice refers does not exceed Rs. 500, the holders are required to lodge the return within six weeks of the service of this notice.

If such amount exceeds Rs. 500, within three months of such service.

If for any good reason the holders will be unable to lodge the return within the time allowed, they should apply to the Collector for extension of such time.

(Sd.) A. B.,
Collector.

COLLECTOR'S OFFICE,
Dated

N.B.—To this notice shall be annexed forms of Parts I, II, III and IV of the return which is mentioned in Schedule A.

FORM NO. II.

Form of Notice upon a Revenue-free Estate or Rent-free Tenure under Section 17.

District of

NOTICE UNDER SECTION 17 OF THE CESS ACT, 1880.

THE holder of the revenue-free estate or rent-free tenure (*description to be filled in*) in the district of and all others interested therein are hereby required to lodge in the office of the Collector of the said district a return, in the form hereunto annexed, of all lands comprised in such estate or tenure. Such return must be signed by such holder or his authorized agent, and be so lodged within the time mentioned below under a penalty of a daily fine which may amount to fifty rupees on each such holder for every day after the expiry of such time or of any extended time which may be allowed by the Collector on application made to him until such return shall be lodged.

Notice is hereby given that no rents due to the holders of the said estate (*or* tenure) can be recovered by suit after such time until such return be so lodged.

If the gross annual rental of the estate or tenure to which this notice refers does not exceed Rs. 500, the holders are required to lodge the return within six weeks of the service of this notice.

If the gross rental exceeds Rs. 500, within three months of such service.

If for any good reason the holders will be unable to lodge the return within the time allowed, they should apply to the Collector for extension of such time.

COLLECTOR'S OFFICE, (Sd.) A. B.,
Dated *Collector.*

N.B.—To this notice shall be annexed forms of Parts I, II, III and IV of the return which is mentioned in Schedule A.

SCHEDULE C.

Form of Notice under Section 33.

District of

NOTICE UNDER SECTION 33 OF THE CESS ACT, 1880.

THE owner, chief agent, manager or occupier of (*give the name by which the concern or property is known*) situated in the district of , is hereby required to lodge in the office of the Collector of of a return in the form hereunto annexed, showing the amount of land under cultivation at the date of this return in the said .

Such return must be signed by him and be lodged within the space of two months from the service of this notice (unless within the said two months such owner, chief agent, manager or occupier obtain from the Collector an extension of the said space of two months), under penalty of a daily fine of fifty rupees for every day after the expiry of such period or extension thereof until such return shall be presented.

Form of Return to be annexed to the Notice.

District

Details of lands acquired under any rules for the sale, lease, grant or clearance of waste lands or held direct from Government and used for the cultivation of tea, coffee or cinchona, under the control of the persons submitting the return :—

1	2	3	4	5	6	7
Districts	Pergunnahs and thánás	Designation by which the estate, lot or grant is known, and the number it bears on any register kept by the Collector.	Name of owner, agent, manager or occupier.	Entire area of land.	Area or areas of lands under cultivation.	Aggregate value at Rs. 10 per acre of land in *column 6*.
in which the lands lie.						

I, *X. Y. Z.*, do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

Signed ———.

N.B.—This return must be signed by the owner, chief agent, manager or occupier.

* This word and figure in the heading of column 7 have been substituted for the original word and figure by Ben. Act II of 1881, s. 13—see Ben. Act II of 1881, s. 13, *infra*, p. 604.

SCHEDULE D.

Form of Notice under Section 52.

NOTICE TO HOLDERS OF LANDS HELD RENT-FREE UNDER SECTION 52 OF THE CESS ACT, 1880.

NOTICE is hereby given to all concerned that the lands specified in the annexed extracts from valuation-rolls of estates and tenures have been entered by the holders of such estates and tenures in the valuation-returns of their estates and tenures under the Cess Act, 1880, and have been valued as shown in the extracts.

Every owner and holder of any land entered in these extracts may appear before the Collector within one month of the publication of this notice, and may object to the amount at which his land has been valued.

If no such objection is made, the owners and holders of lands will be bound to pay year by year to the holder of the estate or tenure in which his land has been entered the amount of road cess and public works cess calculated on the annual value of such land as entered in these extracts at the full rate which may be fixed for the year in the district.

If any instalment of the cess due upon any of the lands included in these extracts is not paid to the holder of the estate or tenure on or before the date which the Lieutenant-Governor may fix for the payment of such instalment, the holder of the estate or tenure will be entitled to recover double the amount due with interest and all costs of suit.

SCHEDULE E.

Form of Notice under Section 72.

District of

NOTICE UNDER SECTION 72 OF THE CESS ACT, 1880.

THE owner, chief agent, manager or occupier of the (*give the designation of the property*), situated in the district of , is required to lodge in the office of the Collector of the district of a return in the form hereunto annexed, showing the net profits of the calculated on the average of the profits of the last three years for which accounts have been made up. Such return must be signed by him or his authorized agent, and be lodged within the space of two months from service

of this notice, unless within the said two months an extension of the time allowed is obtained from the Collector.

COLLECTOR'S OFFICE, (Sd.) A. B.,

Dated *Collector.*

Annexed form of Return.

District

Detail of yearly profits of mines, quarries, railways and tramways or other immoveable property in the possession or under the control of the person submitting the return :—

1	2	3	4
Districts	Pergunnahs.	Name of holder or manager.	Annual net profits per annum on the average of the last three years for which accounts have been made up.
in which the property lies.			

I, *X. Y. Z.*, do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

Signed_____.

N.B.—This return must be signed by the owner, chief agent, manager or occupier.

SCHEDULE F.

Form of Notice under Section 99.

District of

NOTICE UNDER SECTION 99 OF THE CESS ACT, 1880.

THE occupiers, tenure-holders, under-tenants and raiyats on estate or tenure (*the estate, tenure or lands to be here clearly designated*) are hereby prohibited, until further order of the Collector, from making any payment of rent now or hereafter to become due from them in respect of any land comprised within

such estate or tenure except to the Collector of the said district, or to (*name of person*) hereby appointed to receive the same. The Collector will grant receipts for all sums paid, and such receipts will, under the provisions of the above Act, be a valid discharge, to the extent of the sums covered by such receipts, for rent due, or hereafter to become due, as above stated by the holders of such receipts. All payments, except to the Collector, until further order, will be null and void.

(Sd.) A. B.,
Collector.

ACT No. I OF 1881.

Received the Lieutenant-Governor's assent on the 3rd March, 1881, and the Governor General's assent on the 10th April, 1881.

An Act to amend the Calcutta Port Improvement Act Amendment Act, 1880.

Preamble.

WHEREAS it is expedient to facilitate the raising of loans by the Commissioners for making improvements in the Port of Calcutta in the manner contemplated by Bengal Act IV of 1880, and to further amend Bengal Act V of 1870; It is hereby enacted as follows:—

Repeal of sections of Ben. Act IV of 1880.

1. Sections 17, 18 and 19 of Bengal Act IV of 1880 are hereby repealed.

Substitution of sections for sections 7, 8 and 10 of Ben. Act IV of 1880.

2. For sections 7, 8 and 10 of the said Act IV of 1880 the following sections shall be substituted:—

[See *supra*, pp. 470, 471.]

Form of debenture under Ben. Act IV of 1880.

3. For the schedule annexed to the said Act IV of 1880 the following schedule shall be substituted:—

SCHEDULE (*referred to in section 16*).

FORM OF DEBENTURE.

[See *supra*, p. 473.]

Substitution of section for section 20 of Ben. Act IV of 1880.

4. For section 20 of the said Act IV of 1880 the following section shall be substituted:—

[See *supra*, p. 472.]

5. In section 2[a] of Bengal Act V of 1870, as amended by Bengal Act VII of 1871, the words "persons in number not more than thirteen nor less than nine" shall be substituted for the words "persons in number not more than twelve nor less than nine." Increase in maximum number of Commissioners.

6. After section 100 of Bengal Act V of 1870, the following section shall be added:— New section introduced after section 100 of Ben. Act V of 1870.

[See *supra*, p. 153.]

ACT No. II OF 1881.[b]

Received the Lieutenant-Governor's assent on the 23rd March, 1881, and the Governor General's assent on the 19th April, 1881.

An Act to amend the Cess Act, 1880.

Ben. IX of 1880.

WHEREAS it is expedient to amend the Cess Act, 1880, passed by the Lieutenant-Governor of Bengal in Council; It is hereby enacted as follows:— Preamble.

1. In section 9 of the Cess Act, 1880, for the figures "111" the figures "109" shall be substituted. Amendment of section 9 of the Cess Act, 1880.

2. In section 10, after the words "public works cess," the words "and all interest paid thereon," shall be inserted. Amendment of section 10.

3. In section 13, after the words "in accordance with any valuation" the words "or re-valuation" shall be inserted. Amendment of section 13.

4. After section 40 the following section shall be inserted, namely:— Introduction of new section after section 40.

[See *supra*, p. 554.]

5. In section 42, clause (1), for the words "for the payment of the instalments," the following shall be substituted:—"under the provisions of section 3 of Act XI of 1859, or of any similar Act at the time being in force for the payment of arrears." Amendment of section 42, clause (1).

6. In section 43, after the word "proportionately" the words "to the land-revenue" shall be inserted. Amendment of section 43.

In clause 3 of the same section, for the words "the last preceding section" the words "this section" shall be substituted.

7. To section 44 the following clause shall be added:— Addition to section 44.

[See *supra*, p. 557.]

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[a] S. 2 of Ben. Act V of 1870 has since been repealed by Ben. Act III of 1887.

[b] This Act has been declared in force, under s. 3 of the Scheduled Districts Act, 1874, in the Districts of Hazáribágh, Lohardugga and Manbhoom—see Vol. I, p. 679.

Amendment of section 45.

8. In section 45, after the word "twelve" the words "and a half" shall be inserted.

Amendment of section 46.

9. In section 46, clause (3), for the words "preceding section" the words "preceding clause" shall be substituted.

Amendment of section 108.

10. In section 108, after the words "cesses under this Act," the words "not being interest levied in respect of public works cess," shall be inserted.

Amendment of Schedule A, Part I.

11. In the heading of column 3 of Part I, Schedule A, after the word "land," the words "if known," shall be inserted.

For the note which stands below Part I of the same schedule the following note shall be substituted:—

[See *supra*, p. 604.]

Amendment of Schedule A, Part II.

12. In the heading of column 4 of Part II, Schedule A, after the word "occupied," the words "if known," shall be added.

Amendment of Schedule C.

13. In the heading of column 7 of the form of return in Schedule C, for the word and figure "column 5" the word and figure "column 6" shall be substituted.

ACT No. III OF 1881.[a]

Received the Lieutenant-Governor's assent on the 9th April, 1881, and the Governor General's assent on the 10th May, 1881.

An Act to amend the Court of Wards' Act, 1879.

Preamble.

WHEREAS it is expedient to amend the Court of Wards' Act, 1879; It is enacted as follows:—

Short title, construction and commencement of Act.

1. This Act shall be read and taken as part of the Court of Wards' Act, 1879, and it shall come into force upon the date[b] on which it may be published in the Calcutta Gazette with the assent of the Governor General. Ben. IX of 1879.

Amendment of section 17 of Act XI of 1859.

2. In section 17 of Act XI of 1859,[c] the words from the beginning of the section down to the words "eighteen years. And" are hereby repealed.

Amendment of sections 16 and 17 of Ben. Act IX of 1879.

3. For sections 16 and 17 of Bengal Act IX of 1879 the following sections shall be substituted:—

[See *supra*, pp. 434, 435.]

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[a] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2; also in the Districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan, under s. 3 of the Scheduled Districts Act, 1874—see Vol. I, p. 679. It has been extended to the District of Sylhet under s. 5 of the Scheduled Districts Act—see Appendix to Assam Supplement.

[b] *i.e.*, the 25th May, 1881.

[c] See Vol. I, p. 387.

4. For section 23 of the same Act the following sections shall be substituted, namely :— Amendment of section 23.

[See *supra*, p. 436.]

5. The following sections shall be substituted for sections 48 and 49 of the same Act :— Amendment of sections 48 and 49.

[See *supra*, pp. 443, 444.]

6. In section 50 of the same Act, for the word "person" the word "male" shall be substituted, and for the word and figures "section 49" the word and figures "section 48" shall be substituted. Amendment of section 50.

7. In section 55 of the same Act, after the words "shall be brought on behalf of any ward," the words "by a manager" shall be inserted. Amendment of section 55.

8. To section 58 of the same Act the following words shall be added, namely :— Amendment of section 58.

[See *supra*, p. 446.]

9. The following section shall be inserted between section 58 and section 59 of the same Act :— New section introduced between sections 58 and 59.

[See *supra*, p. 447.]

10. Instead of the repealed section 63 of the same Act, the following section shall be read, namely :— New section substituted for repealed section 63.

[See *supra*, p. 448.]

11. After section 65 of the same Act the following section shall be inserted, namely :— New section introduced after section 65.

[See *supra*, p. 449.]

ACT No. IV OF 1881.[a]

Received the Lieutenant-Governor's assent on the 9th April, 1881, and the Governor General's assent on the 23rd May, 1881.

An Act to amend the Bengal Excise Act, 1878.

Ben. VII of 1878.

WHEREAS it is expedient to amend the Bengal Excise Act, 1878; It is enacted as follows :— Preamble.

1. This Act may be called the Bengal Excise Act Amendment Act, 1881. Short title.

It shall be read with and taken as part of the Bengal Excise Act, 1878, and it shall come into force from the date[b] on which it may be published in the Calcutta Gazette with the assent of the Governor General. Construction and commencement.

[a] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2; also in the Districts of Hazáribágh, Lohardugga and Mánbhoom, Pergunnah Dhalbhoom and the Kolhan, under s. 3 of the Scheduled Districts Act, 1874—see Vol. I, p. 679. It has been extended to Assam under s. 5 of the Scheduled Districts Act, 1874—see Appendix to Assam Supplement.

[b] *i.e.*, the 8th June, 1881.

Repeal of section 64 of Ben. Act VII of 1878.

2. Section 64 of the Bengal Excise Act, 1878, is hereby repealed.

Amendment of section 4.

3. In section 4, after the definition of "exciseable article" the following shall be inserted, namely:—

[See *supra*, p. 367.]

Amendment of section 9.

4. In the last clause of section 9, for the words "and permit the manufacture of such liquors in distilleries established under section 7," the following shall be substituted:—

[See *supra*, p. 369.]

Introduction of new section after section 17.

5. After section 17 the following section shall be inserted, namely:—

[See *supra*, p. 371.]

Amendment of section 19.

6. In section 19, after the words "beyond the limits of British India" shall be inserted the words "or at any place in British India in which no duty of excise is levied upon its manufacture."

Amendment of section 58.

7. In section 58, the words "for sale" shall be omitted, and for the last clause of the section the following words shall be substituted, namely:—"shall be liable for every such offence (the provisions of section 17 notwithstanding) to a fine not exceeding five hundred rupees."

Amendment of section 61.

8. For the second clause of section 61 the following shall be substituted:—

[See *supra*, p. 380.]

Introduction of new section after section 61.

9. After section 61 the following section shall be inserted, namely:—

[See *supra*, p. 380.]

Amendment of section 75.

10. In the first clause of section 75, for the words "shall be liable to seizure and confiscation by an officer duly empowered in that behalf" the following shall be substituted, namely:—"shall be liable to seizure by an officer duly empowered in that behalf, and to confiscation."

Amendment of section 82.

11. For section 82 the following section shall be substituted, namely:—

[See *supra*, p. 384.]

ACT No. V OF 1881.

Received the Lieutenant-Governor's assent on the 30th March, 1881, and the Governor General's assent on the 5th July, 1881.

An Act to provide for the appointment of a Burial Board in Calcutta and its Suburbs.

Preamble.

WHEREAS it is expedient to make better provision for the general manage-

ment, regulation and control of the Government burial-grounds in the town of Calcutta and its Suburbs; It is hereby enacted as follows:—

Short title and commencement of Act.

1. This Act may be called the Calcutta Burial Board's Act, 1881, and it shall come into force from the date* on which it may be published in the Calcutta Gazette with the assent of the Governor General.

Lieutenant-Governor may appoint a Burial Board.

2. The Lieutenant-Governor of Bengal may, by a notification published in the Calcutta Gazette, appoint a Burial Board for the Town and Suburbs of Calcutta.

Constitution of Board.

3. The Board shall be constituted as follows:—

the Chairman of the Calcutta Corporation;

the Health Officer of Calcutta;

an Officer of the Public Works Department, to be appointed by the Lieutenant-Governor of Bengal;

the Senior Chaplain of St. John's Church in Calcutta;

a clergyman of the Church of Rome, to be nominated by the Archbishop and Vicar Apostolic of Western Bengal;

a Protestant Nonconformist Minister, to be nominated by the Lieutenant-Governor of Bengal;

not less than three and not more than six other members to be nominated by the Lieutenant-Governor of Bengal.

The Lieutenant-Governor of Bengal may, from time to time, relieve any member of the Board nominated by him of his functions as such member.

Chairman to be appointed by Lieutenant-Governor.

4. The Chairman of the Board shall be nominated by the Lieutenant-Governor of Bengal.

Lieutenant-Governor may place Government burial-grounds under the Board.

5. The Lieutenant-Governor of Bengal may, by a notification published in the Calcutta Gazette, place under the control of the Board all or so many of the Government burial-grounds (not being military burial-grounds) situate in the Town or Suburbs of Calcutta as to him shall seem fit; and the general management, regulation and control of such burial-grounds shall, subject to the provisions of this Act, be thereupon vested in, and exercised by, the Board.

Board to receive and account for fees and grants.

6. The Board shall receive all fees and other moneys paid or given in respect of the use of such burial-grounds, and the erection of monuments

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* *i.e.*, the 20th July, 1881.

therein, and such grants as Government may from time to time place at their disposal, and shall pay thereout all charges and expenses incurred by them in the management of the same, and shall submit accounts of such receipts and expenditure once in every year to the Lieutenant-Governor of Bengal, in such form and manner as the Lieutenant-Governor may direct.

Board may appoint subordinate establishments.

7. The Board may from time to time appoint all such overseers, clerks, subordinate officers and servants as they shall think necessary and proper to assist in carrying out the purposes of this Act, and may from time to time remove any of such persons and appoint others in their place.

Power to make rules.

8. The Board may, with the sanction of the Lieutenant-Governor of Bengal, from time to time make such rules, consistent with the purposes of this Act, as they may think necessary for any of the following purposes; that is to say :—

(*a*) for regulating the times when the Board shall meet and the procedure to be observed at such meetings;

(*b*) for securing the preservation, repair or removal of existing monuments, and for regulating the dimensions and erection of new monuments in any burial-ground under their charge;

(*c*) for regulating the mode of payment of fees, charges and other dues in respect of interments in any such burial-ground and for the expenditure of the same;

(*d*) for directing the manner in which and the persons by whom all works within any such burial-ground shall be executed; and

(*e*) for otherwise carrying out the purposes of this Act;

and may from time to time, with the sanction aforesaid, vary, alter or revoke any such rules so made. All rules so made and variations, alterations or revocations of rules shall be published in the Calcutta Gazette.

Power to withdraw burial-grounds from control of Board.

9. The Lieutenant-Governor of Bengal may in his discretion at any time withdraw any burial-ground from the control and management of the Board.

Provision for making over private cemeteries to charge of Board.

10. It shall be lawful for the proprietors of any Christian burial-ground, with the sanction of the Lieutenant-Governor of Bengal, to place the same under the management, regulation and control of the Board on such terms and conditions as the Lieutenant-Governor may approve: and such burial-ground shall thereupon be managed in all respects as a Government burial-ground subject to the provisions of this Act.

ACT No. II OF 1882.

Received the Lieutenant-Governor's assent on the 15th April, 1882, and the Governor General's assent on the 9th June, 1882.

An Act to amend the law relating to Embankments and Water-courses.

WHEREAS it is expedient to make better provision for the construction, maintenance and management of embankments and water-courses in the territories subject to the Lieutenant-Governor of Bengal; It is enacted as follows:— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called the Bengal Embankment Act, 1882. Short title.

It extends to the whole of the territories subject to the Lieutenant-Governor of Bengal, except the Sunderbuns, as defined under the provisions of clause 2, section 13, Regulation III of 1828,[a] and the province of Orissa, save as otherwise expressly provided in Part IX. Local extent.

And it shall come into force from the day[b] on which it may be published in the Calcutta Gazette with the assent of the Governor General. Commencement.

2. From such day Bengal Act VI of 1873[c] (*to amend the law relating to embankments and water-courses*), with the exception of the sections set out and schedules specified in Schedule I to this Act annexed, shall be repealed. Repeal of former Acts.

The references in the said sections, which are mentioned in Schedule II to this Act annexed, shall be read as if the references were made to the portions of this Act mentioned against such references respectively in the third column of such schedule.

Sections 80 and 81 of this Act shall be applicable respectively to the proclamation and notice mentioned in sections 26 and 28, Bengal Act VI of 1873.[d]

3. The following words shall, for the purposes of this Act, have the meanings hereby declared, save where, from the context, a contrary intention appears:— Interpretation.

"Collector" means any Revenue-officer in independent charge of a district or portion of a district, or specially appointed by the Lieutenant-Governor of Bengal to perform the functions of a Collector under this Act: "Collector."

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[a] See Vol. I, p. 252.
[b] *i.e.*, the 21st June, 1882.
[c] See *supra*, p. 191.
[d] See *supra*, p. 200.

"District." "district" means the local area throughout which a Collector is authorized to exercise his ordinary functions:

"Embankment." "embankment" includes—

every bank, dam, wall and dyke made or used for excluding water from, or for retaining water upon, any land;

every sluice, spur, groyne, training-wall or other work annexed to, or portion of, any such embankment;

every bank, dam, dyke, wall, groyne or spur made or erected for the protection of any such embankment or of any land from erosion or overflow by or of rivers, tides, waves or waters:

and also all buildings intended for purposes of inspection and supervision:

"Estate." "estate" means any land or share in land included under one entry on the general register of revenue-paying lands and of revenue-free land prepared and maintained by the Collector of a district under the Land Registration Act, 1876,[a] or any similar law for the time being in force: Ben VII of 1876.

"Land." "land" includes interests in land and benefits arising out of land, and things attached to the earth, or permanently fastened to anything attached to the earth:

"Public embankment." "public embankment" means an embankment maintained by the officers of Government:

"Public water-course." "public water-course" means a water-course under the charge of the officers of Government:

"Section." "section" means a section of this Act:

"Tenure." "tenure" includes all interests in land which are held permanently at a fixed rental, or which are held rent-free, other than estates as above defined:

"The Engineer." "the "Engineer" means the Engineer in charge of the public embankments of the district, or any part thereof, or any Engineer specially appointed by the Lieutenant-Governor of Bengal to perform the functions of an Engineer under this Act in respect of any tract of country or of any works:

"Water-course." "water-course" includes a line of drainage, weir, culvert, pipe or other channel, whether natural or artificial, for the passage of water:

"Zamindár." "zamindár" means all or any of the holders of an estate; and, where two or more zamindárs are jointly holders thereof, they shall be jointly and severally liable under this Act.

Explanation.—For the purposes of Part VI the Government shall be deemed to be the zamindár—

(*a*) of every estate of which the zamindári title is not vested elsewhere than in the Government;

[a] See *supra*, p. 292.

(*b*) of every estate which is let in farm or held khas under the provisions of section 43 of Regulation VIII of 1793[a] in consequence of the proprietor refusing or omitting to engage for the settlement thereof.

Public embankments, &c., to vest in Government.

4.[b] Every public embankment and every public water-course, and all land, earth, pathways, gates, bermes and hedges belonging to, or forming part of, or standing on, any such embankment or water-course, and every embanked tow-path maintained by Government, shall vest in the Government. The embankments mentioned in Schedule D annexed to Bengal Act VI of 1873,[c] and every embankment and water-course which may be included in such schedule under section 43 of this Act, and every embanked tow-path as aforesaid, shall be held on behalf of the Government; and all other public embankments and water-courses shall be held by Government on behalf of the persons interested in the lands to be protected or benefited by such embankments or water-courses, subject to the provisions of section 87; and all moneys received on account of such lands shall be credited to the cost of the construction and maintenance of such embankments and water-courses respectively.

Survey of lands hitherto used for obtaining earth for repairs.

5.[b] All plots or parcels of land which, before the commencement of this Act, have been used for the purpose of obtaining earth or other materials for the repair of any public embankment, water-course or embanked tow-path as aforesaid, or which by agreement have been substituted for such lands, shall be deemed to be at the disposal of the Government for such purpose, without payment of compensation for the use or removal of such earth or other materials.

The Collector may cause all such plots or parcels to be ascertained, surveyed and demarcated.

Notification.

6.[b] The Lieutenant-Governor may from time to time, by a notification in the Calcutta Gazette, declare the limits of any tract within which the provisions of clause (*b*), section 76, shall take effect;

and the said provisions shall take effect one month after the publication of such notification.

As soon as possible after the said publication, the Collector shall cause a translation of the notification in the vernacular to be published in the manner prescribed in section 80.

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[a] See Vol. I, p. 25.
[b] Ss. 4, 5 and 6 extend to the Province of Orissa—see s. 94, *infra*, p. 635.
[c] See *supra*, p. 212.

PART II.

POWERS OF COLLECTOR AND PROCEDURE THEREON; EMBANKMENT COMMITTEES.

Powers of Collector.

7. Subject to the provisions of Part III, whenever it shall appear to the Collector that any of the following acts should be done, or works executed, that is to say:

Taking charge of embankment by Government.

(1) that any embankment which connects public embankments, or forms by junction with them part of a line of embankments, or that any embankment or water-course which is necessary for the protection or drainage of the neighbouring country, should be taken charge of and maintained by the officers of Government;

Removal of embankment or obstruction.

(2) that any embankment, or any obstruction of any kind, which endangers the stability of a public embankment or the safety of any town or village, or which is likely to cause loss of property by interfering with the general drainage or the flood drainage of any tract of land, should be removed or altered;

Changing line of embankment.

(3) that the line of any public embankment should be changed or lengthened, or that any public embankment should be renewed, or that a new embankment should be constructed instead of any public embankment, or that any embankment should be constructed for the protection of any lands or for the improvement of any water-course, or that a sluice in any public embankment should be made;

Improvement of drainage.

(4) that any sluice or water-course should be made, or that any public water-course should be altered for the improvement of the public health, or for the protection of any village or cultivable land;

Alteration of roads and construction of water-courses.

(5) that any road which interferes with the drainage of any tract of land should be altered, or that any water-course under or through such road should be constructed;

he shall cause to be prepared estimates of the cost of such works, including such proportion of the establishment charges as may be chargeable to the works in accordance with the rules for the time being in force under this Act, or as may be specially ordered by the Lieutenant-Governor, together with such plans and specifications of the same as may be required. He shall also cause to be prepared from the survey map of the district a map showing the boundaries of the lands likely to be affected by the said acts and works, and he shall cause a general notice to be given of his intention to cause such works to be executed.

Form of notice.

8. Such general notice shall as far as possible be in the form, and state the particulars mentioned, in Schedule III to this Act annexed; and to it shall be

annexed a list of all estates and villages, as far as is known, which are likely to be affected by the proposed work, and to be chargeable in respect of the expenses of executing the same; and a copy of the said estimates, specifications and plans, together with a copy of the map as aforesaid, shall be deposited in the office of the Collector, and shall be open to the inspection of any persons interested, who shall be allowed to take copies thereof.

Proclamation to be published for thirty days.

9. Every such general notice shall be published in the manner provided by section 80 not less than thirty days before the day appointed for hearing the persons interested.

Hearing of objections to works.

10. The Collector shall, on the day appointed for the hearing, or on any subsequent day to which the hearing may be adjourned, hold an enquiry and hear the objections of any persons who may appear, recording such evidence as he may deem necessary.

Order after enquiry.

11. After holding such enquiry the Collector shall proceed as follows, that is to say :—

(*a*) if he considers that the proposed act or work, or any modification of the same, should not be done or executed, he shall record his opinion to that effect;

(*b*) if he considers that the proposed act or work, or any modification of it, should be done or executed, he shall submit a report to the Commissioner of the Division.

Order of Commissioner.

12. On receipt of a report submitted under section 11, the Commissioner, after making any further enquiry which he may deem necessary, may record an order refusing to support the proposal made in the report of such Collector for the execution of such work;

or may forward the report submitted by such Collector, together with any remarks he may think proper, for the consideration of the Board of Revenue.

Order of Board.

13. On receipt of the report forwarded by the Commissioner, the Board of Revenue, after making any further enquiry which they may deem necessary, may record an order refusing to support the proposal made in the report of such Collector or Commissioner,

or may submit such report, together with any remarks which may be thought proper, for the consideration of the Lieutenant-Governor.

Order of Lieutenant-Governor.

14. On receipt of such report from the Board the Lieutenant-Governor shall proceed to consider the same, and may order that the proposed act or the proposed work, or any modification thereof, be done or executed. Every such order shall be notified in the Calcutta Gazette.

Special powers

15. Notwithstanding anything contained in this Part, the Lieutenant-

which may be conferred by Lieutenant-Governor.

Governor may, by a special order passed in respect of any act or work specified in section 7, or by a general order in respect of any class of such acts or works, authorize the Collector, after holding such enquiry as is prescribed in section 10, without previous reference to any superior authority, to pass an order that such act or work or any modification thereof may be done or executed; or the Lieutenant-Governor may authorize the Commissioner or the Board of Revenue to pass such order without previous reference to any superior authority:

Provided that every order passed under the authorization of the Lieutenant-Governor, given under this section, shall be subject to the provisions of section 85.

Alteration of railroads and construction of water-courses.

16. The Collector may make an order requiring that any railroad which interferes with the drainage of any tract of land be altered, or that any water-course under or through such railroad be constructed.

Procedure of Collector.

17. Whenever an order shall have been passed in cases falling under section 7, clause (5), or under the section last preceding, directing that any road or railroad which interferes with the drainage of any tract of land be altered, or that any water-course be constructed under or through such road or railroad, the Collector may require the person in charge of such road or railroad to make such alteration or construct such water-course, and in the event of such person failing to comply with such requisition in such manner and within such time as the Collector shall prescribe, the Collector may cause the road or railroad to be altered or the water-course to be constructed by the officers of Government:

Provided that in the case of a railroad no such work shall be undertaken by the officers of Government without the permission of the Lieutenant-Governor previously obtained.

Expenses of alteration or construction.

The expenses of such alteration or construction shall be borne by the person in charge of the said road or railroad, so far as the same shall have been incurred on account of insufficient provision having been made at the time of the construction of the said road or railroad for the natural drainage then existing, and the remainder of the expense, if any, shall be charged upon, and recovered from, the proprietors of the lands benefited in accordance with the provisions of this Act. If any dispute arises as to the apportionment of expenses under this clause between the person in charge of a road or railroad and the proprietors of the lands benefited, the dispute shall be decided by the Lieutenant-Governor, whose decision shall be final.

Application for new sluices.

18. (*a*) If any person desires that a sluice be made in any public embankment for the purpose of drainage or irrigation,

(*b*) or if, within any tract of country which has been included within a notification under section 6, any person desires that any new embankment be erected, that any existing embankment be lengthened, enlarged, repaired or removed, or that the line of any embankment be altered, or that any new water-course be made, or that any water-course be obstructed or diverted, embankments, or drainage.

he may make an application in writing to the Collector. The application shall contain such particulars of the land likely to be affected by the work as may enable the Collector to judge of the advantage which may be derived from the project. If it should appear to the Collector that the work applied for is one which may probably be executed with advantage, the procedure mentioned in the seventh and following sections of this Act shall be followed in respect of the proposed work.

19. Whenever the Collector, after considering any report of the Engineer or otherwise, shall be of opinion that the removal of any trees, houses, huts or other buildings, situated between a public embankment and the river, is necessary, or that land is required for widening an existing embanked tow-path, or for constructing a new embanked tow-path, he shall make a report to that effect to the Commissioner, accompanied by a detailed statement of the trees, houses, huts or other buildings to be removed, or of the land required. Such report shall be submitted in the usual manner through the Board of Revenue to the Lieutenant-Governor, in order that proceedings may be taken for obtaining possession of such trees, houses, huts and buildings or land in accordance with the provisions of the Land Acquisition Act, X of 1870,[a] or other law for the time being in force for the acquisition of land for public purposes. Power to remove houses, &c.

20. If any works proposed to be undertaken in accordance with this Act, or the lands which are likely to be affected by such works, are situated within the limits of different districts, the Collector of any district within which any portion of such works or lands is situated may apply to the Commissioner of the division for authority to proceed in such matter; and the Commissioner of the division, with the concurrence of any other Commissioner within whose division any such lands are situated, may give authority to such Collector, or to any other Collector within whose district any portion of such lands is situated, to carry out all or any proceedings under this Act in respect of all the lands affected by such works. Authority to take proceedings where lands likely to be affected by the works are in different districts.

21. The Lieutenant-Governor may, if he think fit, appoint an Embankment Committee for any district, and may from time to time appoint and Lieutenant-Governor may appoint

[a] See General Acts, 1867—76, 2nd Ed., p. 177.

Part II.—(Powers of Collector and Procedure thereon; Embankment Committees. Secs. 22-24. Part III.—Procedure in Cases of Imminent Danger to Life or Property. Secs. 25-26.)

Embankment Committee.

accept the resignation of the members of such Committee, and direct that any person shall cease to be a member thereof.

Consultation of Committee by Collector.

22. The Lieutenant-Governor may from time to time direct that any such Committee shall be consulted by the Collector in the discharge of any function or the performance of any duty imposed on him by this Act; and by a notification published in the Calcutta Gazette may from time to time direct that any such function or duty shall be performed or discharged by such Committee.

Business of Committee.

23. The business of every such Committee shall be conducted under such rules as the Lieutenant-Governor may from time to time make in that behalf.

Reference to Commissioner.

24. Whenever, in any matter on which the Lieutenant-Governor has directed that the Collector shall consult the Committee, the Collector may differ from the Committee, he shall, if so required by the Committee, submit the question to the Commissioner of the division for decision, with copies of any remarks which may have been recorded by the Committee or any members thereof.

PART III.

Procedure in Cases of Imminent Danger to Life or Property.

Proceedings in emergencies.

25.[a] Whenever the Collector shall be of opinion that the delay in the execution of any work occasioned by proceedings commenced by a general notice under the seventh and following sections of this Act would be attended with grave and imminent danger to life or property, he may forthwith cause the execution of such work to be begun in anticipation of the completion of such proceedings:

Provided that he shall without delay cause to be prepared the estimates, specifications and plans of the proposed works, together with a copy of the map as provided in section 7, and shall cause general notice to be given that the work mentioned therein has already been commenced; and thereupon such proceedings and enquiries shall be had as in and by Part II of this Act are directed.

Restoration of embankments, &c.

26. Whenever it may have been determined in the final order to be passed on any such enquiry that anything done by the Collector or by the Engineer under the last preceding section was unnecessary, any person who shall have

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[a] As to the exercise of the powers of the Collector under s. 25 by the Superintendent of Embankments in the Province of Orissa, see s. 92, *infra*, p. 635.

sustained damaged by the execution of such works shall receive compensation from the Government to be assessed according to the provisions contained in Part V of this Act, and, on receipt of any application to that effect by the Collector from any such person affected, the land or the embankments or drainage shall, so far as any alteration thereof shall appear to have been unnecessary, be, at the expense of the Government, restored as nearly as possible to the state in which they were when the Collector commenced to act under the provisions of this Part.

Authority to take proceedings where lands in different districts.

27. If any portion of the land likely to be affected by any work to be undertaken under this Part lies within another district, the Collector who causes the work to be executed shall, when commencing upon it, give notice of the same to the Collector of such other district; and the provisions of section 20 shall be applicable to all proceedings connected with the work and the cost thereof.

PART IV.

Powers of the Engineer.

Engineer subject to control of Collector.

28. The powers conferred on the Engineer under this Act shall be exercised subject to the general control and orders of the Collector.

Power to Engineer to act in urgent cases.

29. In cases in which the Engineer may be of opinion that delay for the purpose of obtaining the orders of the Collector would be attended with grave and imminent danger to life or property, the Engineer may exercise the powers conferred on the Collector by section 25. The Engineer shall forthwith report to the Collector any action taken by him under this section and shall be guided by any instructions which he may receive from the Collector in respect thereof.

Power to make repairs.

30. The Engineer may make any repairs in, and may do all acts necessary and proper for the maintenance of, any public embankment, public water-course or any other work executed or taken charge of under the provisions of this Act or of any previous similar Act.

Power to make temporary roadway, water-course or dam.

31. Whenever any person desires that a temporary roadway should be made over, or that a temporary water-course should be made through, any public embankment, or that a temporary dam should be constructed in any embanked river or public water-course, he shall apply to the Engineer, or to any person who has been appointed in that behalf by the Engineer. Such Engineer or person shall communicate the application with his opinion to the Collector, and shall await the Collector's order in respect thereof, unless he

thinks that there is special reason for the immediate execution of the work, in which case he may execute the same without waiting for the orders of the Collector. If the proposed work is to be executed by an officer of Government, the applicant, before the commencement of the work, shall deposit the amount estimated by the Engineer to be necessary to defray the expenses of, and incidental to, making and removing such roadway, or of, and incidental to, making, closing or removing such water-course or dam. If the amount deposited is found afterwards to exceed the amount required, such excess shall be returned to the said applicant.

Sluices to be opened or shut under authority of the Engineer.

32. Sluices constructed in any public embankment shall be opened or shut only by or with the general or special permission of the Engineer or of the officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the Engineer.

Power to enter and survey land, &c.

33. It shall be lawful for the Engineer, or any person whom he may authorize in that behalf, in order to carry out any of the purposes of this Act,—

to enter upon, and survey, and take levels of any land;

to dig or bore into the sub-soil;

to do all other acts necessary to ascertain whether the land is adapted to the purpose projected by such Engineer or by the Collector;

Power to mark out line.

to set out the boundaries of the land proposed to be taken, and the intended line of the work proposed to be made thereon;

to mark such levels, boundaries and line, by placing marks and cutting trenches;

Power to clear land.

and, where otherwise the survey cannot be completed or the levels taken, to cut down and clear away any part of any standing crop, fence or jungle:

Previous notice of entry.

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Payment for damage.

The Engineer or other person so authorized shall at the time of such entry tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so tendered, he shall at once refer the dispute to the decision of the Collector, and such decision shall be final.

Power to take earth from lands.

34.[a] Whenever it is deemed requisite to repair any embankment or water-course, or embanked tow-path maintained by Government, it shall be lawful for the Engineer, or any person authorized in that behalf, to enter in and upon

[a] S. 34 extends to the Province of Orissa—see s. 94, *infra*, p. 635.

the lands mentioned in section 5, and take possession of, appropriate and remove any earth or other material therefrom, and use the same for the purposes of such repairs.

Procedure where crops on such lands.

35. The Collector shall proceed in respect of any crops standing on such land as provided in section 13, Bengal Act VI of 1873;[a] and the provisions of that section shall be applicable to claims for the payment of compensation for damage done to such crops.

Acquisition of land made permanently unfit for cultivation.

36. When any such land is rendered permanently unfit for cultivation by any such act as aforesaid, the Local Government shall, upon application for that purpose made by the owner thereof, acquire such lands under the provisions of the Land Acquisition Act, 1870,[b] or other law for the time being in force for the acquisition of land for public purposes.

X of 1870.

PART V.

Acquisition of Lands and Compensation.

Acquisition of land.

37. Whenever, in the course of proceedings under this Act, save in those cases in which the Collector has proceeded under the provisions of sections 12 and 13, Bengal Act VI of 1873,[a] it appears that land is required for any of the purposes thereof, proceedings shall be forthwith taken for the acquisition of such land in accordance with the provisions of the Land Acquisition Act, X of 1870,[b] or other law for the time being in force for the acquisition of lands for public purposes.

Compensation for consequential damage.

38. Subject to the provisions of section 5, whenever any land other than land required or taken by the Engineer, or any right of fishery, right of drainage, right of the use of water, or other right or property, shall have been injuriously affected by any act done or any work executed under the due exercise of the powers or provisions of this Act, the person in whom such property or right is vested may prefer a claim by petition to the Collector for compensation:

Provided that the refusal to execute any work for which application is made, and the refusal of permission to execute any work for the execution of which the permission of the Collector or any other authority is required under this Act, shall not be deemed acts on account of which a claim for compensation can be preferred under this section.

Limitation to

39. No claim under the last preceding section shall be entertained which

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[a] See *supra*, p. 196.
[b] See General Acts, 1867—76, 2nd Ed., p. 177.

claim for compensation.

shall be made later than two years next after the completion of the work by which such right is injuriously affected.

Procedure for determining compensation.

40. When any such claim is made, proceedings shall be taken in view to determine the amount of compensation, if any, which should be made and the person to whom the same should be payable, as far as possible, in accordance with the provisions of the Land Acquisition Act, X of 1870,[a] or other law for the time being in force for the acquisition of land for public purposes.

Matters to be considered in determining compensation.

41. In any such case which is referred to the Judge and assessors for the purpose of determining whether any, and, if so, what amount of compensation should be awarded, the Judge and assessors shall take into consideration—

First, the market-value of the property or right injuriously affected at the time when the act was done or the work executed;

Secondly, the damage sustained by the claimant by reason of such act or work injuriously affecting the property or right;

Thirdly, the consequent diminution of the market-value of the property or right injuriously affected when the act was done or the work executed;

Fourthly, whether any person has derived, or will derive, benefit from the act or work in respect of which the compensation is claimed, or from any work connected therewith, in which case they shall set off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed to such person.

Matters not to be considered in determining compensation.

But the Judge or assessors shall not take into consideration—

First, the degree of urgency which has led to the act or work being done or executed;

Secondly, any damage sustained by the claimant, which, if caused by a private person, would not in any suit instituted against such person justify a decree for damages.

PART VI.

Cost of Works, Proceedings, &c.

1.—Ascertainment thereof.

Embankments in Schedule D.

42. The provisions of section 47 and the following sections in this Part contained shall not apply to any of the embankments mentioned in Schedule D to Bengal Act VI of 1873[b] annexed, or which may be hereafter included therein, save so far as any works or repairs are executed therein or in relation

[a] See General Acts, 1867—76, 2nd Ed., p. 177.

[b] See *supra*, p. 212.

thereto under the provisions of section 18 or of section 31; or to any of such embankments as may hereafter be erected for the protection of lands which at the commencement of this Act are protected by the embankments mentioned in the aforesaid schedule, save so far as the erection of such embankments may protect lands not protected by the embankments mentioned in the aforesaid schedule. All sums payable in respect of any works or repairs executed in or in relation to the embankments mentioned in the aforesaid schedule, except under the provisions of section 18 or of section 31, shall be paid by the Government.

Exclusion from Schedule D.

43. If at any time after the commencement of this Act, on enquiry made by the Collector as far as possible in accordance with the provisions of Part II of this Act, it shall be found that it is unnecessary for the public interests to retain any embankment mentioned in the said Schedule D, or any embankment or water-course which may have been included in the said Schedule D under the clause next following of this section, the Lieutenant-Governor may direct that the same shall be no longer included in the said schedule:

Provided that the Lieutenant-Governor may restore the same to the said schedule if on any subsequent enquiry similarly conducted it shall appear to the Lieutenant-Governor that it is necessary so to do.

Addition to Schedule D.

The Lieutenant-Governor may, at any time after the passing of this Act, by a notification published in the Calcutta Gazette, direct that any embankment not mentioned in the said Schedule D, or any water-course, be included therein, and the provisions of this section shall apply to such embankment or water-course.

Contribution of public money towards the maintenance of the embankments in the pergunnahs entered in Schedule E to be continued.

44. In accordance with the custom heretofore in force in respect of the pergunnahs entered in Schedule E annexed to Bengal Act VI of 1873,[a] the Government shall continue to contribute annually the sum noted therein for each pergunnah respectively towards the maintenance of the embankments thereof.

If such embankments are declared to be public, Collector to keep a separate account.

45. If the embankments maintained in either of the said pergunnahs shall at any time be declared to be public embankments under the provisions of section 7, the Collector shall, from the date of such declaration, keep a separate account for such pergunnahs, in which the aforesaid sum shall be credited at the commencement of each financial year. The unexpended balance at the close of each year shall be carried on to the credit of the account in the next

[a] See *supra*, p. 235.

succeeding year, and shall be available for the cost of repairing or erecting all the embankments which it may be deemed necessary to maintain in such pergunnah.

Contribution may be discontinued if it be found unnecessary for the public interest to maintain the embankments.

46. If at any time after the commencement of this Act, on an enquiry made by the Collector as far as possible in accordance with the provisions of Part II, it shall be found that it is unnecessary for the public interests to retain any embankment in either of the said pergunnahs, the Lieutenant-Governor may direct that such contribution shall cease in respect of such pergunnah:

Provided that such contribution shall again be made in accordance with the provisions hereinbefore contained, if it shall appear to the Lieutenant-Governor, on the report of an enquiry similarly conducted, that the maintenance of any embankment in such pergunnah has again become necessary for the public interest.

Estimates and specifications to be prepared.

47. Subject to the provisions of Part III of this Act, before the Collector or the Engineer undertakes, under the provisions of this Act, the execution of any repairs or of any work other than any new work of which the estimates, specifications and plans have been prepared and deposited in the Collector's office for public inspection as provided in section 7, specifications and estimates of the expenses to be incurred in respect of the repairs or works, including such proportion of establishment charges as the Lieutenant-Governor shall direct, shall be prepared by the Engineer.

Preparation of further estimates and specifications.

48. Whenever it appears that the actual expenses to be incurred in respect of any work will exceed by one-tenth any estimate of such work which may have been transmitted to the office of the Collector under the next succeeding section, the Engineer shall forthwith prepare further estimates, and, if necessary, further specifications.

Estimates and specifications to be open to inspection.

49. Copies of all specifications and estimates prepared under the two last preceding sections shall be transmitted to the office of the Collector, together with vernacular translations thereof, or such abstracts thereof as the Lieutenant-Governor may from time to time direct, and may be examined by any person interested in such works and repairs.

Notice of receipt of estimates and specifications.

50. A general notice of the receipt of any such specifications and estimates shall be published in the manner prescribed in section 80, and in such general notice shall be specified all estates chargeable for, or likely to be affected by, the said works or repairs. Special notices shall also be served in respect of every estate in which the area liable to the assessment of the apportioned charge is likely to exceed one hundred acres; or, instead of causing a general notice to be published, the Collector may cause special notices to the same

effect to be served in respect of every estate chargeable for, or likely to be affected by, the said works and repairs. Should any objection in regard to such specifications and estimates be preferred by any such person within a period of one month from the date of service of such notice, the Collector shall pass such orders as may appear to him reasonable and proper.

Preparation of accounts and Engineer's certificate of expenses.

51. The accounts of the actual expense incurred in executing any works or repairs, or of any portion of the actual expenses with which the Collector may determine to deal separately under this and the following sections, shall be prepared as soon as possible after the completion thereof. The Engineer shall sign a certificate stating the amount of all such expenses, and specifying the boundaries of the lands which are benefited or affected by the said works or repairs, and stating generally how and to what extent the lands so specified, or any parts of them, are affected. Any such certificate may be amended at any time before the Collector has made an order charging or apportioning the amount under section 58. On receipt of such certificate or amended certificate, the Collector shall cause a statement to be prepared of the villages of which any lands are benefited or protected by such works and repairs, and of the estates to which they belong, and, except as otherwise in this Act provided, the zamindárs of such estates and villages shall be liable to pay the said amount. Copies of the said accounts, certificates and statements shall be deposited in the office of the Collector, and may there be examined by any person interested.

Notices and enquiry into objections.

52. General notice of the receipt and deposit of such accounts, certificates and statements in the office of the Collector shall be given. Special notices thereof shall also be served in respect of every estate in which the area liable to assessment of the apportioned charges exceeds one hundred acres; or, instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate and tenure on or among the zamindárs or tenure-holders of which any sum is charged or apportioned; and if, within one month of such general notice being given, or of such special notice (if any) being served on him, any interested person shall object to the accounts on the ground either that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than those mentioned in the estimates, the Collector shall enquire into such objection, and pass orders thereon.

Total sum payable.

53. The Collector shall add to the amount appearing in the said certificate all sums which have been paid or have become payable in respect of the said works and repairs, whether as compensation, costs and expenses under, and incidental to, any proceedings taken or directed to be taken under Part II or

Part V of this Act, or under sections 26 to 29 of Bengal Act VI of 1873,[a] as cost of making of surveys and plans, as cost of preparing the estimates, accounts, certificates and statements, as cost of the issuing and service of notices up to date, or on any other account, and shall then make an order specifying the total sum found payable, and in respect of works done under section 17 and section 31 the persons by whom, or in respect of other works, the estates in respect of which, the same is payable to him. If the order is made in respect of work done under section 17 or section 31, the same shall forthwith be served upon the party or parties liable to pay; otherwise the Collector shall proceed under the provisions in the next Chapter contained.

Interest.

Interest may be charged upon any sum paid as compensation from the date of payment thereof at five per centum, or at such rate, not exceeding five per centum per annum, as the Lieutenant-Governor may from time to time determine.

2.—Liability for the Costs, and Apportionment thereof.

Parties liable to pay.

54. The total sum aforesaid, save so far as is otherwise provided in this Act, shall be paid to the Collector by the zamindárs of the estates in which are situated the lands benefited or protected by the repairs or works executed:

Proviso in respect of the pergunnahs in Schedule E.

Provided that the sum standing to the credit of a pergunnah in Schedule E to Bengal Act VI of 1873[b] annexed in the account kept by the Collector, at the time when the total amount payable is fixed under the provisions of section 53, shall be deducted from the total amount payable in respect of such portion of any embankment as is situated in such pergunnah, and that the zamindárs of the estates situated in such pergunnah shall be charged only with the balance of the amount (if any) which may remain payable.

Recovery from under-tenants.

55. Every zamindár, who is liable under the last preceding section for the payment of the whole or a portion of such total sum, shall be entitled to recover from the holder of every tenure held immediately under him, and from the holder of any land which is declared under the provisions of section 60 to form part of his estate, the sum apportioned to such tenure or land by the Collector under the provisions of section 59. And, similarly, every tenure-holder shall be entitled to recover from the holder of any tenure subordinate to his own, and from the holder of any land declared under section 60 to form part of his tenure, the sum apportioned to such subordinate tenure or land by the Collector, under the said provisions.

Notice to be given before apportionment.

56. So soon as the total sum payable as aforesaid has been ascertained, the Collector shall cause general notice to be given specifying the estates in

[a] See *supra*, p. 200. [b] See *supra*, p. 235.

respect of which any portion of such total sum will be chargeable, and special notices to be served in respect of every estate in which the area chargeable exceeds one hundred acres; or, instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate and tenure on or among the zamindárs or tenure-holders of which any sum is charged or apportioned. Such notices shall make it known that an enquiry will be held at a day and place therein named for the purpose of apportioning amongst the zamindárs and tenure-holders the said total sum, with interest and the costs of apportionment.

Names of tenure-holders.

57. In any such enquiry the Collector shall take down in writing the names of all persons who may claim, or who may be alleged by any party interested, to be holders of tenures within any of the estates mentioned in such notice. In default of appearance of any such person, the Collector shall issue and serve a notice calling on him to appear at a date and place therein mentioned, and to show cause against being included in the order of apportionment to be made therein, and shall adjourn the enquiry till such date.

Apportionment amongst zamindárs.

58. At such or any subsequently adjourned enquiry, the Collector, if there be only one estate liable, shall charge the zamindár thereof with the total amount payable; and if, there be two or more estates, he shall apportion the same amongst the zamindárs thereof either—

(*a*) rateably in proportion to the respective benefits derived by such estates from such works or repairs; or

(*b*) in proportion to the areas of the lands benefited or protected thereby, and comprised within such estates respectively; or

(*c*) with the sanction of the Local Government, in proportion to the amount of revenue payable for such estates respectively:

Provided that the said total amount payable in respect of the embankments on the right bank of the river Gunduk shall be chargeable, in accordance with the custom in force for such estates, to the zamindárs of all the estates situated in the district of Sarun, in proportion to the amount of revenue respectively payable for such estates:

Provided also that the total amounts which may have been expended by the Government before the commencement of this Act, and the total amounts which may become payable in accordance with the provisions of this Act, on account of any year in respect of the embankments on the left bank of the river Gunduk in the district of Mozufferpore, shall be chargeable, and shall be deemed always to have been chargeable, in accordance with the custom hitherto in force in respect of such embankments; that is to say, chargeable to the zamindárs of all the estates situated in the following pergunnahs, *viz.*,

Rati, Gadasand, Hajipur, Bhatsala, Garjaul, Nae, Saresa and Balagach, in proportion to the amounts of land-revenue payable for such estates respectively, but so that the amount out of any total sum apportioned in respect of each estate in Rati, Gadasand and Hajipur shall bear such a proportion to the land-revenue payable for such estate as shall be twice as great as the proportion which the amount apportioned in respect of each estate in the remaining pergunnahs shall bear to the land-revenue payable for such estate.

Apportionment amongst tenure-holders.

59. The Collector shall, in like manner, except in respect of the said embankments on the right bank and left bank of the river Gunduk, charge or apportion the amount payable in respect of each estate upon or amongst the holders of the tenures therein rateably in the proportion of benefit so received or of area so benefited or protected, first deducting therefrom such sum as, on the like principle of proportion, is payable in respect of such portion of the estate as is not included within any tenure.

Provision as to lands held without payment of rent not being estates.

60. All lands held without payment of rent not being estates may, for the purposes of this Act, be deemed to form part of any estate or of any tenure within the local boundaries of which they are included; and if they are not included within the local boundaries of any estate, then to be a part of such conterminous estate as the Collector in whose district such conterminous estate is situated shall, by an order under his seal and signature, declare.

Amount apportioned payable by instalments.

61. The amount charged to or apportioned on any estate or tenure shall be payable in equal instalments on such days as the Lieutenant-Governor shall direct: Provided that no instalment shall exceed four annas for every acre of land in respect of which the same is payable, and that not more than four instalments shall be payable in any one year.

Interest.

Interest shall be charged on the unpaid portion of the said amount from the date of apportionment until payment thereof at five per centum or at such rate, not exceeding five per centum per annum, as the Lieutenant-Governor may from time to time determine.

Apportionment of further expenses.

62. If after the apportionment of the expenses of any works and repairs as above prescribed any expenses not included in such apportionment shall be found to have been paid or to have become payable on account of the said works or repairs, whether as compensation or otherwise, the Collector may proceed to apportion such further expenses in the manner in this Part provided.

Alternative power of apportioning estimated

63. Instead of the procedure prescribed above for charging upon, and recovering from, zamindárs the expenses actually incurred in the repairs and maintenance of public embankments and water-courses and the works connect-

ed therewith, the Lieutenant-Governor may, by an order to be published in the Calcutta Gazette, direct that an estimate be made of the expenses to be incurred in respect of such repairs, maintenance and works during any number of years, not exceeding thirty, which he may think fit; and may by a subsequent order fix the total sum payable during such number of years by the zemindars of the estates benefited by such repairs, maintenance and works:

expenditure for a series of years.

Provided that no order fixing such total sum shall be passed by the Lieutenant-Governor until three months after the amount of such estimate shall have been published in the Calcutta Gazette, and by a general notice calling on all persons interested to prefer to the Collector any objections they may think proper against such amount being fixed as the total sum. Every such objection shall be submitted to the Lieutenant-Governor for his consideration.

64. The period fixed in any order under the section last preceding may include also years previous to the commencement of this Act:

Period included in the last section what to include.

Provided that in such case the total sum mentioned in the said section shall be calculated by adding the amounts actually expended before the making of such order to the estimate of expenses to be incurred during the rest of the period included in such order.

65. The total sum mentioned in section 63 or in section 64 may be made recoverable in respect of the expenses of repairs and maintenance, and the expenses of works connected with the repairs and maintenance—

Works in respect of which such estimate may be made.

(*a*) of any protective works which may be specified in such orders;

(*b*) of all the public embankments and water-courses in any district; or

(*c*) of all the public embankments and water-courses within any tract of country specified in the order of the Lieutenant-Governor; and any such tract may contain the whole or portions of any one or more districts;

and no further sum shall be recoverable during such period in respect of the expenses of such repairs, maintenance and works connected therewith, save so far as any such works or repairs are executed under the provisions of section 18 or of section 31.

But such total sum shall not include the expenses of executing any new works which may be undertaken under the provisions of this Act within any district or tract as aforesaid.

Recovery of cost of new works.

Whenever the Lieutenant-Governor shall declare that any work executed or to be executed within such district or tract is a new work within the meaning of this section, the cost of executing such work and of maintaining the same

shall be payable by the zamindárs to the Collector under the provisions of this Act, in addition to any total sum fixed under section 63 or section 64 as payable by them.

Mode of apportionment.

66. On publication of any order of the Lieutenant-Governor under section 63, the Collector shall proceed to charge or apportion the said total sum upon or among the zamindárs and (except in respect of the embankments on the right and left banks of the river Gunduk as provided in section 58) among the tenure-holders who are liable to pay the same, as above provided.

Payment of sum apportioned.

67. The sum so apportioned in respect of any estate or tenure on account of any such period as is mentioned in section 63 shall be payable in equal portions in each of the years included in such period, and each such portion if unpaid shall carry interest at five per centum, or at such rate, not exceeding five per centum, per annum, as the Lieutenant-Governor may from time to time determine, from the end of the year in which it is payable.

Final order of apportionment.

68. On the completion of any charge or apportionment under this Act, the Collector shall make an order specifying the estates and tenures in respect of which any sum charged or apportioned is payable, and the sums payable in respect of each of the instalments of such sums, and the dates on which such sums are payable.

3.—Recovery thereof.

Publication of final order of apportionment.

69. As soon as may be after any final order of apportionment is made as provided in the section last preceding, the Collector shall cause copy of such order to be published with a general notice stating that the amounts apportioned on the zamindárs in respect of estates are payable to the Collector, and the amounts apportioned on the tenure-holders in respect of tenures are payable to the zamindárs or superior tenure-holders. Instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate and tenure on or among the zamindárs or tenure-holders of which any sum is charged or apportioned.

Recovery of sums apportioned.

70. If any such sum payable to the Collector, or any instalment thereof, be not, pursuant to the said order, paid, the same with interest may be recovered as arrears of a demand under the provisions of the Public Demands Recovery Act, 1880,[a] or any similar Act for the time being in force. Ben. VII of 1880.

Effect of opening separate account under Act XI of 1859 or Ben. Act VII of 1876.

71. When a recorded sharer of a joint revenue-paying estate has opened a separate account under Act XI of 1859[b] or under section 70 of Bengal Act VII of 1876,[c] or any similar law for the time being in force for the regulation of the opening and maintaining of such separate accounts, he shall be entitled, in

[a] See *supra*, p. 515. [b] See Vol. I, p. 380. [c] See *supra*, p. 314.

regard to the payment and realization of all sums due under this Act, to all the advantages of separate liability enjoyed by him under the said Act XI of 1859,[a] and Bengal Act VII of 1876,[b] respectively, in regard to the payment and realization of revenue, and shall be entitled to separate assessment and to the issue of a separate notice in every case in which special notice is by this Act required to be served, from the date on which such advantages shall take effect in respect of the demand of Government revenue.

Similar privileges shall attach to every recorded holder of a revenue-free estate who has opened a separate account under section 46 of Bengal Act IX of 1880[c] in respect of the amount of cesses payable by him.

Liability of estate for sum apportioned.

72. Notwithstanding anything contained in section 70, any such sum shall be a first charge on the estate in respect of which it is apportioned, and shall be deemed to be a demand debited to the estate in the public accounts of the district within the meaning of section 31 of Act XI of 1859,[d] and such charge shall not be avoided by any sale, nor shall the joint liability of the entire estate for such sum be affected by any partition of the said estate which may subsequently take place.

Amount apportioned may be raised by leasing or mortgaging estate.

73. If the Collector thinks it inexpedient to proceed for the recovery of such sum or any part thereof under the provisions of section 70, or having so proceeded shall have failed to realize the sum due, he may, with the sanction of the Board of Revenue, raise the amount necessary to discharge the sum or instalment remaining unpaid—

(*a*) by mortgaging the whole or any part of such estate;

(*b*) by letting in farm or managing by himself or another the whole or any part of such estate;

(*c*) partly by one of such modes and partly by another or others of them.

For the purposes of this section the Collector may exercise all the powers of the owner of such estate, and his signature shall be a good and sufficient signature to any document necessary to carry into effect the said purposes.

Recovery by zamindárs and tenure-holders.

74. Every zamindár or tenure-holder to whom any sum or instalment thereof is payable under an order made in pursuance of section 68 may recover the same with interest as aforesaid in the manner provided for the recovery of arrears of rent in respect of patni tenures by the provisions of clauses 2 and 3 of section 8, sections 9, 10, 14, 15, and clauses 1, 2 and 3 of section 17 of Regulation VIII of 1819,[e] as amended by Bengal Act VIII of 1865,[f] or by the provisions of any similar Act for the time being in force:

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[a] See Vol. I, p. 380.
[b] See *supra*, p. 292.
[c] See *supra*, p. 557.
[d] See Vol. I, p. 390.
[e] See Vol. I, pp. 164, *et seq.*
[f] See *supra*, p. 42.

Provided that the right or interest of any person holding from the defaulter shall not be affected by any sale held under these provisions.

PART VII.

PENALTIES.

Penalty for obstructing persons in exercise of powers conferred by Act.

75. Whoever wilfully obstructs any person duly authorized under this Act in removing or levelling any embankment, house, hut or other building, or in the lawful exercise of any of the powers in this Act conferred, shall, in case such obstruction shall not amount to an offence within the provisions of the Indian Penal Code,[a] be liable to imprisonment of either description for any period not exceeding six months, at the discretion of the Magistrate, or to fine not exceeding two hundred rupees. XLV of 1860.

Penalty for unauthorized interference with embankments or drainage.

76.[b] (*a*) Every person who, in any of the territories to which this Act extends, without the previous permission of the Collector, shall erect, or cause or wilfully permit to be erected, any new embankment, or shall add to any existing embankment, or shall obstruct or divert, or cause or wilfully permit to be obstructed or diverted, any water-course, if such act is likely to interfere with, counteract or impede any public embankment or any public water-course;

Penalty for unauthorized interference with embankments or drainage in prohibited tract.

(*b*) every person who, within the limits of the tract included in any prohibitory notification under section 6, without the previous permission of the Collector, shall erect, or cause or wilfully permit to be erected, any new embankment, or shall add to any existing embankment, or shall obstruct or divert, or cause or wilfully permit to be obstructed or diverted, any water-course; and

Penalty for abetment of such acts.

(*c*) every person who shall abet any such act as is mentioned in clauses (*a*) and (*b*),

shall be liable, on conviction, to a fine not exceeding five hundred rupees, or in default of payment to imprisonment of either description for a period not exceeding six months.

Penalties for injuring embankments, &c.

77. No person shall, without due authority, cut through, or attempt to cut through, any public embankment, or destroy, or attempt to destroy, any such embankment, or open or shut, or obstruct any sluice in any such embankment, or any public water-course; and every person who shall commit any breach of the provisions of this section shall, in case the act shall not amount to mischief within the meaning of the Indian Penal Code,[c] be liable to imprisonment of XLV of 1860.

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[a] See General Acts, 1834—66, 2nd Ed., p. 240.

[b] S. 76 extends to the Province of Orissa, the words "Superintendent of Embankments" being substituted for "Collector" in cls. (*a*) and (*b*)—see s. 94, *infra*, p. 635.

[c] See Act XLV of 1860, s. 425, in General Acts, 1834—66, 2nd Ed., p. 339.

either description for a term not exceeding one month, or to a fine not exceeding two hundred rupees.

Penalties for diverting rivers or permitting cattle to graze on embankments, &c.

78. Every person who shall make any dam or other obstruction for the purpose of diverting or opposing the current of a river or water-course wherein or whereon there are public embankments, without the permission of the officer in immediate charge of the embankments, or shall refuse or neglect to remove any such dam or obstruction so made by him when required to remove it by the Engineer, or without the permission of the Engineer previously obtained shall cut or otherwise alter the banks of any embanked river or water-course, or remove the earth from any public embankment, or drive stakes into it, or by any other wilful act destroy or diminish the efficiency of such embankment; and every person who without such permission shall cause or knowingly and wilfully permit any cattle to graze upon any such embankment or tether or cause or wilfully permit any cattle to be tethered upon any such embankment, or root up any grass or other vegetation growing on any such embankment, shall be liable to imprisonment of either description for a term not exceeding six months, or to a fine not exceeding two hundred rupees.

Obstructions to be removed and damage repaired.

79. Whenever any person is convicted of an offence under either of the three last preceding sections, the convicting Magistrate may order that he shall remove the embankment or obstruction, or repair the damage, in respect of which the conviction is held, within a period to be fixed in such order. If such person neglects or refuses to obey such order within the fixed period, the Engineer may remove such embankment or obstruction or repair such damage, and the cost of such removal or repair shall be levied from such person in addition to any other penalty in the manner provided in sections 386, 387 and 389 of the Code of Criminal Procedure, 1882.[a]

[a] Act X of 1882.

PART VIII.

MISCELLANEOUS.

Mode of publishing proclamations and issuing notices.

80. Every proclamation and general notice by this Act required to be issued or given shall be published by affixing a copy of the same in the office of every Collector, Subdivisional Officer and Munsif within whose jurisdiction, and at every police-station within the limits of which, any lands affected by such proclamation or notice are known by the Collector to be situated; and by affixing copies of the same in conspicuous positions in such hâts, bázárs, towns, villages or other public places as the Collector may direct; and

[a] See Act X of 1882, s. 3, in General Acts, 1882 (Pt. I), p. 242.

also by giving notice by beat of drum at such public places that such copies have been affixed and that one copy of the papers containing the information which is the subject of such proclamation or general notice is open to inspection by all concerned at the office of the Collector.

Service of special notices.

81. Every special notice or order by this Act required to be served shall be served,—

(1) by delivering a copy of the same to the person to whom it is directed, or, on failure of such service, by posting a copy on some conspicuous part of the house in which the said person resides, or by delivering a copy to any agent authorized to appear generally for the person to whom such notice or order is directed; or

(2) by sending a registered letter containing a copy of such notice or order directed to the said person at his usual place of abode, or at the place where he may be known to reside; or

(3) by posting a copy of the notice or order at the mal-kachahri of the estate, village or tenure to which the same relates; or, if no such mal-kachahri be found, on some conspicuous place on the said estate, village or tenure; or

(4) if the person on whom the notice or order is to be served is a zamindár, by delivering a copy thereof to the agent who shall have paid an instalment of revenue next before or who may pay the instalment next after the preparation of such notice or order, on behalf of such zamindár.

In all cases where two or more persons are holders of an estate or tenure, service under the last two clauses shall be deemed to be good and sufficient service on each and all of such persons.

Powers of Collector and Commissioner on enquiry and appeal.

82. In any enquiry or appeal held under this Act, the Collector and the Commissioner shall respectively have the same powers as those conferred on Courts by the Code of Civil Procedure[a] of summoning and examining witnesses and compelling the production of documents. XIV of 1882.

No proceedings to be impeached for mistake or want of form

83. No proceedings under this Act shall be impeached or affected by reason of any mistake in the name of any person thereby rendered liable to pay any sum of money, or in the description of any estate or tenure or land in respect of which he is rendered liable to pay: provided the directions of this Act be in substance and effect complied with; and no proceedings under this Act shall for want of form be quashed or set aside in any Court of Justice.

Appeal from orders

84. Every order passed by the Collector in respect of applications under

[a] See Act XIV of 1882, Chapters XIV and XV, in General Acts, 1882-84, pp 73, *et seq.*

section 18, and every order passed under sections 11, 50, 52 or 68, shall be appealable to the Commissioner of the Division, and every such order of the Commissioner, except when otherwise directed by this Act, shall be appealable to the Board of Revenue, but no appeal shall lie under this section against any order unless the same be presented within one month from the date of the order.

General control of Commissioner and Government.

85. All the powers of a Collector under this Act shall be exercised under the general control and orders of the Commissioner of the Division, and all the powers of Collectors and Commissioners shall be exercised subject to the general control and orders of the Board of Revenue and of the Government.

Every order passed by any of the said authorities shall be subject at any time to be varied or set aside by the controlling authority.

Orders to be final.

86. Subject to the provisions of the two sections last preceding, every order passed by the Collector in respect of applications under section 18 and every order passed under sections 11, 50, 52 or 68, and every order passed by a controlling authority in respect of such order of a Collector, shall be final, and not liable to be modified or altered otherwise than as expressly provided in this Act.

Disposal of lands no longer required for embankments

87. Whenever the maintenance of any public embankment, or the retention of any land appropriated to the purposes thereof, may no longer be required, and the permanent relinquishment of the same may be deemed expedient, such land shall be restored by the Collector to the estate or tenure from which such land was originally taken on repayment of the compensation, if any, which was paid for such land when the same was taken for the purpose of the embankment. If persons who are entitled to the restoration of any land under this section, or any of them, refuse or neglect to pay such price within a reasonable time after demand, the same shall be sold by the Collector as a revenue-free holding for such price as he can obtain for the same. All sums obtained for lands conveyed under the provisions of this section shall, after the payment of all expenses incurred on account of the same, be applied to the payment of the cost of any new embankment or drainage-works, or of the expenses of maintaining any embankment or drainage-works affecting the said lands and other adjacent lands, in reduction of the amount chargeable upon the zamindárs and tenure-holders of the lands benefited, as hereinbefore provided, if any amount be so chargeable.

Collector may delegate any of his powers to a Deputy Collector.

88. A Collector may delegate any of his powers under this Act to a Deputy Collector, but from any order passed by a Deputy Collector to whom powers have been so delegated an appeal shall lie to the Collector if presented within thirty days of the date of the order.

Every such delegation of powers shall be reported to the Commissioner of the Division.

Jurisdiction.

89. All offences created by this Act shall be enquired into and tried by a Magistrate of the first or second class.

Power to make, alter, and cancel rules.

90. The Lieutenant-Governor may from time to time make rules consistent with the provisions of this Act to regulate the following matters:—

(*a*) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

(*b*) the business of Embankment Committees;

(*c*) the cases in which, the officers to whom and the conditions subject to which orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;

(*d*) the person by whom, the time, place or manner at or in which, anything for the doing of which provision is made in this Act, shall be done;

(*e*) the amount of any charge made under this Act; and

(*f*) generally to carry out the provisions of this Act.

The Lieutenant-Governor may from time to time alter or cancel any rules so made.

Publication of rules.

Such rules, alterations and cancelment shall be published in the Calcutta Gazette, and shall thereupon have the force of law:

Provided that no rules shall be made by the Lieutenant-Governor under the powers conferred on him by this section until a draft of the same shall have been published in the Calcutta Gazette for one month, after which time the Lieutenant-Governor may pass such rules as originally published, or with such alterations, additions and omissions as he may think fit.

Saving of operation of certain Acts.

91. Nothing in this Act shall apply to any embankment, land or water-course which is under the operation of any of the following Acts:—

the Bengal Drainage Act, 1880,[a] — Ben. VI of 1880.

the Bengal Irrigation Act, 1876,[b] — Ben. III of 1876.

Bengal Act V of 1864[c] (*an act to amend and consolidate the law relating to the collection of Tolls on Canals and other lines of navigation, and for the construction and improvement of lines of navigation, within the provinces under the control of the Lieutenant-Governor of Bengal*).

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[a] See *supra*, p. 491 [b] See *supra*, p 265. [c] See *supra*, p. 21.

PART IX.

Special Provisions for the Province of Orissa.

Powers conferred on Superintendent of Embankments in Orissa.

92. The powers conferred on the Collector by section 25 may, in the Province of Orissa, be exercised by the Superintendent of Embankments with the consent of the Collector previously obtained, and the references in the said section to other parts of this Act shall be deemed to be references to the corresponding portions respectively of Act XXXII of 1855[a] (*an Act relating to Embankments*). The consequences mentioned in section 26 shall attach to everything done by the Superintendent of Embankments under the provisions of this section.

Power to Engineer to act in urgent cases.

93. In cases in which the Engineer in charge of any embankment may be of opinion that delay for the purpose of obtaining the orders of the Superintendent of Embankments and the Collector would be attended with grave and imminent danger to life or property, the Engineer may exercise the powers conferred on the said Superintendent with the consent of the Collector in pursuance of the last preceding section. The Engineer shall forthwith report to the said Superintendent any action taken by him under this section, and shall be guided by any instructions which he may receive from him in respect thereof.

Sections made applicable to Orissa.

94. Sections 4, 5, 6, 34 and 76 shall extend to the Province of Orissa, the words "Superintendent of Embankments" being substituted for the word "Collector" in clauses (*a*) and (*b*) of section 76.

SCHEDULE I (*referred to in section 2*).

(Portions of Bengal Act VI of 1873 which are not repealed.)

Power to take possession of land.

12. Whenever any land or earth from any land the property of any person is required for the purposes of any works commenced in pursuance of the provisions of the last preceding section, or for the purposes of section 18 in cases where the Collector shall be of opinion that proceedings for the acquisition of such land according to the provisions hereinafter contained in section 25 would cause delay as aforesaid, the Collector shall cause a proclamation to be issued in form in Schedule B annexed to this Act, giving notice thereof at

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[a] See Vol. I, p. 290.

convenient places in the locality in which such land is situated, and he may at the same time take possession of the same for the said purposes.

Compensation for standing crops and trees.

13. The Collector shall ascertain and record the nature and estimated value of the crops and trees (if any) standing on such land, and shall offer adequate compensation to the persons interested. If such offer is not accepted, the value of such crops and trees shall be allowed for in awarding compensation for the land under the provisions of section 29:

Proviso.

21. Provided always that in case the Collector be of opinion that the delay required by such proceedings is likely to be attended with grave and imminent danger to life or property, it shall be lawful for him forthwith to cause such trees, houses, huts or buildings to be removed, and in such case the compensation due therefor shall be ascertained and paid in the manner hereinafter provided.

When land taken, proclamation to be published.

26. Whenever any land shall have been taken or used under the provisions of Part III, the Collector shall cause a proclamation to be issued in form in Schedule C annexed to this Act at convenient places on or near the land so taken, stating that Government has taken possession of the land, and that claims to compensation for all interests in such land shall be made to him. Thereupon the land shall vest absolutely in the Government free from all encumbrances, subject, however, to the claims for compensation to be ascertained in manner as in this Part is provided.

Contents of proclamation.

27. Such proclamation shall state the particulars of the land so taken, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of issuing the proclamation), and to state the nature of their respective interests in the land, and the amount and particulars of their claims to compensation for such interest.

Further notice to be served on certain parties.

28. The Collector shall also serve notice to the same effect on the occupier (if any) of such land, and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside, or have agents authorized to receive service on their behalf, within the revenue district in which the land is situate.

Proceedings after notice.

29. After service of such notice proceedings shall be had and taken to determine the amount of compensation to be payable in respect of such land, in accordance with the provisions of the Land Acquisition Act, X of 1870,[a] or other law for the time being in force for the acquisition of land for public purposes.

Schedules B, C, D and E.

[a] See General Acts, 1867—76, 2nd Ed., p. 177.

SCHEDULE II (*referred to in section 2*).

Section of Bengal Act VI of 1873 in which the reference is made.	The reference as it stands.	To what portion of the present Act the reference is to be read to apply.
Section 12	To "the last preceding section."	Section 25.
Section 12	To section 18 . .	Section 30.
Section 12	To section 25 . .	Section 37.
Section 21	To "such proceedings".	Section 19.
Section 26	To Part III . .	Part III.
Section 26	To "this Part" . .	Part V.

SCHEDULE III (*referred to in section 8*).

Notice is hereby given, as required by section 8, Bengal Act II of 1882, to all persons interested, that it appears to the Collector that the following work should be done; that is to say [here state the nature of the work and the purpose for which it is to be undertaken.] * *For the execution of this work the undermentioned land will be required to be taken up:—*

1	2	3
Pergunnah in which land is situated.	Village in which land is situated.	Area of land.

Estimates of the proposed work, with the necessary specifications and plans, together with a copy of the survey map showing the lands likely to be affected by the said work, are open for inspection at this office by any interested person who is allowed to take copies thereof.

† The total probable cost of such work will be the sum of Rs. , and the rate per acre of the area benefited or protected by the said work is estimated at Rs. .

The following estates and villages will probably be affected by the work proposed [*here set out a list of the estates and villages*] :

* The words in italics and the tabular form to be omitted if no land is to be acquired.

† These words may be omitted, unless it is proposed to recover the cost of the work from the zamindárs and tenure-holders.

Any person interested and wishing to show cause against the execution of the works specified is hereby required to appear before the Collector for that purpose on the day of

The day of

A. B,
Collector of

ACT No. I OF 1883.[a]

Received the Lieutenant-Governor's assent on the 22nd January, 1883, and the Governor General's assent on the 23rd February, 1883.

An Act to amend the Bengal Excise Act, 1878.

Preamble.

WHEREAS it is expedient to amend the Bengal Excise Act, 1878; It is enacted as follows:— Ben. VII of 1878.

Construction of Act.

1. This Act shall be read with, and taken as part of, the Bengal Excise Act, 1878, as amended by Bengal Act IV of 1881.

New definitions.

2. In section 4 of the Bengal Excise Act, 1878, the following definitions shall be inserted, that is to say:—

[See *supra*, p. 368.]

New section 10A.

3. After section 10 of the said Act the following section shall be inserted, that is to say:—

[See *supra*, p. 369.]

Amendment of section 15.

4. For the first three paragraphs of section 15 of the said Act the following shall be substituted, that is to say:—

[See *supra*, p. 370.]

New section 17.

5. For section 17 of the said Act the following section shall be substituted, that is to say:—

[See *supra*, p. 371.]

New section 19A.

6. After section 19 of the said Act the following section shall be inserted, that is to say:—

[See *supra*, p. 372.]

Amendment of section 26.

7. In section 26 of the said Act the words "if required by the Collector to do so" shall be inserted after the words "tenor of the license".

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[a] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2

The Act, with the exception of s. 13, has been extended to Assam under s. 5 of the Scheduled Districts Act, 1874—see Appendix to Assam Supplement.

8. In section 29, paragraph 3, of the said Act, the words "in writing" shall be inserted after the words "previous notice". Amendment of section 29.

In the same paragraph of the same section, the word "such" shall be inserted after the words "or if" and before the word "notice".

9. In section 30 of the said Act the words "in writing" shall be inserted after the word "notice". Amendment of section 30.

10. For the second and third paragraphs of section 53 of the said Act the following shall be substituted, that is to say :— Amendment of section 53.

[See *supra*, p. 378.]

11. To section 60 of the said Act the following words shall be added, that is to say :— Amendment of section 60.

[See *supra*, p. 380.]

12. In the first paragraph of section 61 of the said Act the following words shall be inserted after the word "fifteen", that is to say :— Amendment of section 61.

[See *supra*, p. 380.]

In the second paragraph of the same section the following words shall be inserted after the word "article", that is to say :—

"in the possession of any common carrier or warehouseman as such or".

13. This Act shall come into force from the date[a] on which it may be published in the Calcutta Gazette with the assent of the Governor General. Commencement of Act.

ACT No. II OF 1883.

Received the Lieutenant-Governor's assent on the 21st February, 1883, and the Governor General's assent on the 29th March, 1883.

An Act to amend the Calcutta Port Improvement Act, 1870.

Ben. V of 1870.

WHEREAS it is expedient to amend the Calcutta Port Improvement Act, 1870; It is enacted as follows :— Preamble.

1. Section 21 of Bengal Act IV of 1880 is repealed. Section 21, Ben. Act IV of 1880, repealed.

2. For clause (2) of section 39 of Bengal Act V of 1870 the following shall be substituted, that is to say :— Substitution of new clause for clause (2), section 39 of Ben. Act V of 1870.

[See *supra*, p. 137.]

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[a] *i.e.*, the 14th March, 1883.

ACT No. III OF 1883.

Received the Lieutenant-Governor's assent on the 26th March, 1883, and the Governor General's assent on the 25th April, 1883.

An Act to authorize the making and to regulate the working of Tramways in Bengal.

Preamble.

WHEREAS it is expedient to facilitate the construction and to regulate the working of tramways within the territories subject to the Government of the Lieutenant-Governor of Bengal; It is enacted as follows:—

Short title and commencement of Act.

1. This Act may be cited for all purposes as the Bengal Tramways Act, 1883. It shall come into force from the date[a] on which it may be published in the Calcutta Gazette with the assent of the Governor General.

Interpretation.

2. For the purposes of this Act the terms hereinafter mentioned shall, unless there be something repugnant in the subject or context, have the meanings hereinafter assigned to them:—

"Local authority."

the term "local authority" shall mean—

(1) bodies of persons for the time being appointed or elected to conduct the affairs of any municipality under the Bengal Municipal Act, 1884,[b] or other law for the time being in force for the purpose of regulating municipalities in Bengal; Ben. III of 1884.

(2) any Board, Committee, Department or other body or person in whom a road as defined by this Act is vested, or who have the power to maintain or repair such road:

"Area."

the term "area" in relation to a local authority shall mean the area within the jurisdiction of such local authority:

"Municipality."

the term "municipality" shall mean any place in which the Bengal Municipal Act, 1884,[b] or any other law for the time being in respect of Bengal municipalities, is in force: Ben. III of 1884.

"Road."

the term "road" shall mean any carriage way, being a public thoroughfare, and the carriage way of any bridge forming part or leading to the same:

"Tramway."

the term "tramway" shall mean a tramway constructed under this Act.

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[a] *i.e.*, the 2nd May, 1883.
[b] See Ben. Act III of 1884, *infra*, p. 669.

PART I.

Orders by the Local Government authorizing the Construction of Tramways.

By whom orders authorizing the construction of tramways may be obtained.

3. An order made by the Local Government authorizing the construction of any tramways in any municipality or area may be obtained by—

1st, the local authority of such municipality or area;

2nd, any person, persons, corporation or company with the consent of such local authority.

And any such local authority, person, persons, corporation or company shall be deemed to be "promoters" of a tramway, and are in this Act referred to as "the promoters".

When applications for authority to construct tramways may be made.

Where the local authority consists of a body of persons, Board or Committee, no application shall be made to the Local Government for the purpose of authorizing the construction of tramways in a municipality or area until a resolution, approving of the intention to make such application, shall be passed at a special meeting of the members constituting the local authority in such municipality or area.

Such special meeting shall not be held unless a month's previous notice of the same and of the purpose thereof has been given in the manner in which notices of meetings of such local authority are usually given, and such notice shall require that all objections to the proposed tramways shall be submitted for the consideration of the local authority before the date fixed for the special meeting.

Such resolution shall not be passed unless two-thirds of the members constituting such local authority are present and vote at such special meeting and a majority of those present and voting concur in the resolution.

Documents to be forwarded with application.

4. At the time of making an application for such order the promoters shall also forward to the Local Government—

1st, a memorial signed by the promoters descriptive of the undertaking;

2nd, a copy of the proceedings and resolution of the special meeting held under the provisions of section 3;

3rd, a copy of the provisional agreement made between the promoters and local authority, where the promoters are not themselves the local authority;

4th, an estimate of the proposed works, signed by the persons making the same;

5th, all necessary maps, plans, sections and drawings of the proposed work.

Local Government to determine on application and objection.

5. The Local Government shall consider the application, and may, if it think fit, direct an enquiry as to the propriety of proceeding upon such application, and it shall consider any objection thereto that may be filed on or before such day as it may from time to time appoint.

Local Government may make and publish order.

Where it appears to the Local Government expedient and proper that the application should be granted with or without addition or modification, or subject or not to any restriction or condition, the Local Government may settle and make an order accordingly, and such order shall be published in the Calcutta Gazette.

Form and contents of order.

Every such order shall empower the promoters therein specified to make the tramway upon the gauge and in manner therein described, and shall contain such provisions, fix such maximum rates of fare and prescribe such penalties for default as (subject to the provisions of this Act) the Local Government according to the nature of the application and the facts and circumstances of each case thinks fit.

Where the promoters are not the local authority, the order shall set forth the agreement made between the promoters and the local authority, and one of the provisions of such agreement shall settle the manner in which the value of the tramway shall be calculated in the event of its purchase by the local authority, under sections 39, 40 or 41.

Power to revoke, amend or vary order.

6. The Local Government on the application of any promoters empowered by an order to construct a tramway may from time to time revoke, amend or vary such order by a further order:

Provided that, whenever the promoters are not the local authority, the Local Government shall, before passing such order, call upon the local authority to state any objection it may have to such application.

Power to authorize joint work.

7. Subject to, and in accordance with, the provisions of this Act, the Local Government may, on a joint application, or on two or more separate applications, settle and make an order empowering two or more local authorities, respectively, jointly to construct the whole, or separately to construct parts, of a tramway, and jointly or separately to own the whole or parts thereof; and all the provisions of this Act which relate to the construction of tramways shall extend and apply to the construction of the whole and the separate parts

of such tramway as last aforesaid; and the form of the order may be adapted according to the circumstances of the case.

Local Government may in certain cases dispense with consent of local authority.

8. Where it is proposed to lay down a tramway in two or more areas, and any local authority having jurisdiction in any of such areas does not consent thereto, the Local Government may nevertheless make an order authorizing the construction of such tramway, if it is satisfied after enquiry that two-thirds of the length of such tramway is proposed to be laid in an area or areas the local authority of which area or areas does consent thereto.

Promoters powers to cease at expiration of prescribed time.

9. If the promoters empowered by any order under this Act to make a tramway do not, within the period prescribed in such order, complete the tramway and open it for public traffic; or,

if the works are not substantially commenced within the latest date prescribed in such order for their commencement; or,

if the works, having been commenced, are suspended without a reason sufficient, in the opinion of the Local Government, to warrant such suspension;

the powers given by the order to the promoters for constructing such tramway, executing such works or otherwise in relation thereto, shall cease to be exercised to the extent and in the manner specified in such order.

A notice inserted by the Local Government in the Calcutta Gazette to the effect that a tramway has not been completed and opened for public traffic, or that the works have not been substantially commenced, or that they have been suspended without sufficient reason, shall be conclusive evidence for the purposes of this section of such non-completion, non-commencement or suspension.

Payment of expenses when local authority are promoters.

10. When the local authority of any area are the promoters of any tramway, the expenses incurred by them in constructing and working such tramway under the provisions of this Act, including the expenses preparatory thereto, may be paid out of the funds under the control of such local authority.

Rent for use of road when local authority are not promoters.

11. When the local authority are not the promoters, they may fix and demand from the promoters such rent for the use of roads as may be agreed upon.

Application of rent or tolls.

12. Any moneys received by any local authority by way of rent or tolls in respect of any tramway constructed and worked under the provisions of this Act may be applied by them to the purposes for which other funds under the control of such local authority may be applied.

Power to make rules.

13. The Local Government may from time to time make, and when made may revise, modify, annul, add to or confirm, any rules it may be expedient to make for the purpose of carrying this Act into execution.

PART II.

Construction of Tramways.

Form in which tramways are to be constructed and maintained.

14. Every tramway shall be constructed and maintained on such gauge and in such manner as may be specified in the order of the Local Government empowering the construction of such tramway, and, before the work of construction is begun, the maps, drawings and specification showing the proposed construction of such tramway shall be submitted to the local authority and be approved by it, and the cars and carriages intended to run on the tramways shall also be of such construction and furnished with such brakes and other appliances as shall have been approved by such local authority.

Power to break up streets.

15. The promoters may from time to time, for the purpose of constructing and maintaining any tramways under this Act, open and break up the soil and pavement of any of the roads upon which the construction and maintenance of such tramway has been authorized by the order of the Local Government in that behalf, and therein lay sleepers and rails, and repair, renew, alter or remove the same; and may, for the purposes aforesaid, do in and on such roads all other acts which shall from time to time be necessary for constructing and maintaining their tramways:

Provided that, when the powers granted under this section shall be exercised by the promoters who are not the local authority, such powers shall be exercised subject to the following regulations:—

1st.—They shall give to the local authority notice in writing of their intention to open or break up any such road, specifying the time at which they will begin to do so, and the portion of the road proposed to be opened or broken up. Such notice to be given at least seven days before the commencement of the work.

2nd.—They shall not open or break up or alter the level of any such road, except under the superintendence and to the reasonable satisfaction of the local authority, for which superintendence the promoters shall pay all reasonable expenses, unless the local authority neglect to give such superintendence at the time specified in the notice, or discontinue the same during the work.

3rd.—They shall not, without the consent of the local authority in writing, open or break up at any one time a greater length than a quarter of a mile in any one length, and shall leave an interval of at least a quarter of a mile between any two such places at which they may open or break up such road.

4th.—They shall, with all convenient speed, and in all cases within two calendar months at the most, unless the local authority otherwise consent in writing, complete the work for which the said road shall be broken up, and fill in the ground, and make good the surface, and, to the reasonable satisfaction of the local authority, restore the road to as good a condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

5th.—They shall in the meantime, when such road is opened or broken up, cause it to be fenced and watched, and to be properly lighted at night.

6th.—They shall make good all damage done to the gas and water-pipes, sewers, drains, culverts, bridges and fences, whether belonging to the local authority or to private individuals, by the disturbance thereof, and shall not cause any interruption in the supply of gas in or through any main or pipe, or the flow of water through any pipe, drain, culvert, bridge or other waterway; if they fail to make such damage good, or to remove such interruption within reasonable time, the local authority may, without prejudice to the penalties payable under section 29, cause the same to be made good at the promoters' expense.

Promoters to keep the tramway roads in proper repair.

16. The promoters shall at their own expense at all times maintain and keep in good condition and repair, in such manner as the local authority shall direct the rails of which any of their tramways shall for the time being consist, and so much of any road as lies between the rails of any tramway; and, in the case of double lines or turnouts or sidings, the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway; and in the course of carrying out repairs it shall not be necessary to give notice thereof to the local authority.

Promoters not to obstruct ordinary traffic.

17. In exercising the powers given to them by the last two preceding sections the promoters shall arrange their work so as to afford the least possible obstruction to the ordinary traffic of the roads or to the ordinary means of approach to houses situated on either side of the roads, and so as to admit of

as free and unrestricted entry at all times into the sewers, drains, culverts and bridges for the time being in use as is possible under the circumstances, and also so as to enable proper repairs to be made to water or gas pipes by the direction of the local authority.

Reservation of right of public to use roads.

18. Nothing in this Act, or in any bye-law made under this Act, shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange wheels or wheels suitable to run on rails. But the right of the public shall not include the use of any new roadway, embankment or earthwork constructed or acquired for the special and exclusive use of the tramway.

Right of user only.

19. Notwithstanding anything in this Act contained the promoters shall not acquire, or be deemed to acquire, any right other than that of user of any road along or across which they lay any tramway.

PART III.

Working of Tramways.

No tramway to be opened without certificate from Engineer.

20. No tramway shall be opened for public traffic until the same has been inspected and certified by an Engineer or other officer, appointed in that behalf by the Local Government, to be fit for such traffic.

Local authority may lease or take tolls

21. When a tramway has been completed under the provisions of this Act and certified to be fit to be opened for public traffic under the last preceding section, the local authority or other promoters may, subject to the provisions of this Act, place and run carriages on such tramway, and demand and take tolls and charges in respect of the use of such carriages; or may, by lease to be approved of by the Local Government, demise to any person, persons, corporation or company the right of user by such person, persons, corporation or company of the tramway, and of demanding and taking in respect of the same the tolls and charges authorized; or such authority may leave such tramway open to the public, and may in respect of such user demand and take the tolls and charges authorized.

Carriages how to be worked.

22. The cars and carriages of the promoters on the lines of the tramways shall be worked with such power, animal, mechanical or otherwise, as may be specified in the order issued by the Local Government under section 5.

23. The promoters may use on their tramways carriages with flange wheels or wheels suitable for running on the prescribed form of rail, and, subject to the provisions of this Act, they shall have the exclusive use of their tramways for carriages with flange wheels, or other wheels suitable for the said form of rail. **Promoters may use tramway carriages with flange wheels.**

24. The promoters shall have power from time to time to fix the rates of fares for carrying passengers and goods in the said cars or carriages, and may demand and take the same for every passenger travelling upon any of their tramways, or for the carriage of goods by their tramways: **Promoters may fix and demand fares.**

Provided that the rate of fare for each person or parcel shall not exceed the maximum rates authorized in the order of the Local Government issued under section 5.

25. A printed list in English and the vernacular of the district of all the fares and charges fixed under the authority of the last preceding section, and a printed copy in the same languages of all bye-laws in force as hereinafter mentioned, shall be exhibited in a conspicuous place inside each of the cars or carriages used by the promoters upon any of their tramways. **Printed list of fares, &c., to be placed in carriages.**

The fares and charges fixed as aforesaid shall be paid to such persons at such places, upon or near to the tramways, and in such manner and under such regulations as the promoters may, by notice to be annexed to the list of fares, from time to time appoint. **Fares how to be paid.**

26. The members constituting the local authority in a municipality or area in special general meeting may, subject to confirmation thereof by the Local Government, from time to time make such bye-laws as to the rate of speed, number of passengers and mode of use of the tramways as the convenience and safety of the public may require, and as are not inconsistent with this Act or any rules framed under section 13. **Bye-laws by local authority.**

27. The promoters may, subject to confirmation as aforesaid, from time to time make such bye-laws— **The promoters may make certain bye-laws.**

for preventing disturbances, or the entry of persons suffering from infectious diseases, or the commission of any nuisance in or upon any carriage, or in or against any premises, belonging to them; and

for regulating the travelling in or upon any carriage belonging to them:

Provided that such bye-laws are not inconsistent with this Act or with any rules or bye-laws framed under sections 13 and 26.

28. All rules and bye-laws made under sections 13, 26 and 27, and confirmed by the Local Government, shall, when so confirmed, be published in the Calcutta Gazette, and such rules and bye-laws when so published shall, until repealed or altered, be of the same effect as if they had been inserted in this Act: **Publication of bye-laws.**

Provided that no rules and bye-laws shall be confirmed by the Local Government until they shall have been published for at least one month previously in the Calcutta Gazette and in one or more of the local newspapers (if any exist) which circulate in the district to which such rules and bye-laws relate.

PART IV.

OFFENCES.

Penalty for failure of promoters to comply with provisions of this Act.

29. If the promoters, not being the local authority, fail in any respect to comply with the provisions of sections 14, 15, 16, 17, 20 and 22 of this Act, they shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act, or to any other remedy against them), upon complaint of any person injuriously affected thereby, be liable to a penalty not exceeding two hundred rupees and to a further penalty not exceeding fifty rupees for each day during which any such failure continues after the first day on which such penalty is incurred.

Penalty for obstructing promoters in the exercise of their power.

30. If any person wilfully obstructs any person acting under the authority of the promoters in the lawful exercise of their powers in setting out or making, laying down, repairing or renewing a tramway, or injures or destroys any mark made for the purpose of setting out the lines of the tramway, he shall, for every offence, be liable to a penalty not exceeding fifty rupees, and shall also be liable to pay such damages as may be awarded in respect of such injury by any competent Court.

Penalty for interfering with tramway.

31. If any person without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things, namely :—

interferes with, removes or alters any part of a tramway of the promoters, or of the works connected therewith ;

does or causes to be done anything in such a manner as to obstruct any carriage using the tramways ;

or knowingly aids or assists in the doing of such thing,

he shall for every such offence be liable (in addition to any proceedings by way of criminal charge or otherwise to which he may be subject) to a penalty not exceeding one hundred rupees.

Penalty for avoiding payment of proper fare.

32. If any person travelling or having travelled in any carriage of the promoters avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance knowingly and willfully proceeds in any such carriage beyond such distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person

knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit such carriage, every such person shall, for every such offence, be liable to a penalty not exceeding ten rupees.

Servant of promoters may arrest persons avoiding payment of fare.

33. It shall be lawful for any servant of the promoters to arrest and take to the nearest police-station any person who shall be discovered in committing or attempting to commit any such offence as in the last preceding section mentioned, and who shall refuse to give his name and residence, and is unknown to such servant.

Carriage of dangerous or offensive goods.

34. No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous or offensive nature, and, if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant of the promoters with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding fifty rupees for every such offence, and it shall be lawful for the promoters to refuse to accept or carry any parcel that they may suspect to contain goods of a dangerous or offensive nature, or to require the same to be opened to ascertain the fact.

Penalty for breach of bye-laws.

35. Any person offending against any bye-law made under the provisions of this Act shall forfeit for every offence any sum not exceeding twenty rupees to be imposed in such bye-laws as a penalty for such offence.

PART V.

MISCELLANEOUS.

Promoters to be responsible for all damages.

36. The promoters shall be answerable for all accidents, damages and injuries happening through their act or default, or through the act or default of any person in their employment by reason or in consequence of any of their works or carriages, and in all cases where the promoters are not the local authority they shall save harmless the local authorities and their respective officers and servants from all damages and costs in respect of such accidents, damages and injuries.

Power for the local authority or police to regulate traffic on roads.

37. Nothing in this Act shall limit the powers of the local authority or the police to regulate the passage of any traffic along or across any road along or across which any tramways are laid down, and such local authority or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the promoters as to the traffic of other persons.

The local authority shall not be liable to pay to the promoters any

compensation for loss of traffic occasioned by the reasonable exercise of such authority.

Reservation of power over roads.

38. Nothing in this Act shall be construed to prevent the local authority or any corporate body or persons, in the exercise of the powers conferred upon them under any law for the time being in force, from opening, breaking up, widening, altering, diverting or improving any of the roads, bridges, drains or culverts traversed by the tramways for the purposes for which they may now lawfully open, break up, widen, alter, divert or improve the same:

Provided—

(1) that they shall cause as little detriment or inconvenience to the promoters as circumstances admit;

(2) that they may (if absolutely necessary, but not otherwise) order the temporary stoppage of traffic on the tramways or any of them on giving twenty-four hours' previous notice in writing to the promoters;

(3) that before they commence any work, whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the promoters notice of their intention to commence such work, specifying the time at which they will begin to do so; such notice to be given eighteen hours at least before the commencement of the work;

(4) that, in the event of their so interfering with or stopping the running of any tramway under this section, an abatement proportioned to the length of road over which and time during which running is stopped, shall be made from the rent (if any) reserved and payable by the promoters;

(5) that any alteration of the position of any of the tramways, or the making good of any injury or damage that may be occasioned thereto by reason of such widening, alteration or improvement, shall be executed by the promoters at the expense of the local authority.

Discontinuance of Tramways.

Tramways to be removed in certain cases.

39. If at any time after the opening of any tramway for traffic the promoters discontinue the working of such tramway or of any part thereof for the space of three calendar months (such discontinuance not being occasioned by circumstances beyond the control of such promoters, for which purpose the want of sufficient funds shall not be considered a circumstance beyond their control), and such discontinuance is proved to the satisfaction of the Local Government, the Local Government, if it think fit, may by order declare that

the powers of the promoters in respect of such tramway or the part thereof so discontinued shall from the date of such order be at an end, and thereupon the said powers of the promoters shall cease and determine unless the same are purchased by the local authority in manner by this Act provided.

Where such order has been made the Engineer or other officer appointed on that behalf by the Local Government may, at any time after the expiration of two months from the date of such order, remove the tramway or part of the tramway so discontinued, and the promoters shall pay to such Engineer or officer the cost of such removal and of the making good of the road by such Engineer or officer.

Such cost to be certified by such Engineer or officer, whose certificate shall be final and conclusive.

And, if the promoters fail to pay the amount so certified within one calendar month after delivery to them of such certificate or a copy thereof, such Engineer or officer may, without any previous notice to the promoters (but without prejudice to any other remedy which he may have for the recovery of the amount) sell and dispose of the materials of the tramway or part of the tramway removed, either by public auction or private sale, and for such sum or sums and to such person or persons as such Engineer or officer may think fit; and may out of the proceeds of such sale make and reimburse himself the amount of cost certified as aforesaid and of the costs of sale, and the balance (if any) of the proceeds of the sale shall be paid over by the said Engineer or officer to the promoters.

Inability of Promoters.

Proceedings in case of inability of promoters.

40. If at any time after the opening of any tramway it appears to the local authority, or to the Magistrate of the district in which such tramway is situate, that the promoters of such tramway are insolvents, or that they are unable to maintain such tramway, or work the same with advantage to the public, the Local Government, upon a representation to that effect made by such Magistrate or local authority, may direct an enquiry by a referee into the truth of the representation, and if the referee shall find that the promoters are such insolvents, or that they are unable to maintain such tramway or work the same with advantage to the public, the Local Government may, by order, declare that the powers of the promoters shall, at the expiration of six calendar months from the making of the order, be at an end, and the powers of the promoters shall cease and determine at the expiration of the said period unless the same are purchased by the local authority in manner by this Act provided; and thereupon the Engineer or other officer appointed on that behalf by

the Local Government may remove the tramway in like manner, and subject to the same provisions as to the payment of the costs of such removal, and to the same remedy for the recovery of such costs in every respect, as in cases of removal under the last preceding section.

Purchase of Tramways.

Local authority to have right of purchasing tramway after twenty-one years.

41. The local authority shall have the right of purchasing the tramway, with the plant, buildings, stores, rolling-stock and everything connected therewith, upon the expiration of twenty-one years from the date of the order of the Local Government authorizing the construction of such tramway, upon declaring its intention so to do in writing not less than six months before the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years upon similar notice being given; and the value to be placed upon the tramway shall be calculated in a manner to be settled in the agreement entered into between the promoters and the said local authority and set forth in the order of the Local Government:

Provided that the promoters and the local authority may, with the consent of the Local Government, provide in the said agreement for the sale and purchase of the tramway on the expiration of any shorter periods than those hereinbefore specified.

ACT No. IV of 1883.

Received the Lieutenant-Governor's assent on the 20th March, 1883, and the Governor General's assent on the 4th May, 1883.

An Act to amend the law relating to Jute-warehouses and Fire-brigades.

Preamble.

WHEREAS it is expedient to amend the law relating to jute-warehouses and fire-brigades: It is enacted as follows:—

Preliminary.

Title.

1. This Act may be called the Licensed Warehouse and Fire-brigade Act, 1883.

Extent.

It applies to Calcutta and to such portions of the Suburbs thereof as are

for the time being subject to the operation of Bengal Act II of 1866;[a] and also to the Municipality of Howrah :

and it shall come into force from the date[b] on which it may be published in the Calcutta Gazette with the assent of the Governor General. Commencement.

2. Bengal Act V of 1879 is hereby repealed. But all rules, orders, declarations and appointments made under the said Act, and now in force, shall be deemed to have been made under this Act. Repeal of Ben. Act V of 1879.

3. In this Act, unless there be something repugnant in the subject or context,— Interpretation.

"jute" and "cotton" mean respectively jute and cotton which have not been pressed or screwed as if for shipment: "Jute." "Cotton."

"person" includes a firm and an undivided Hindu family : "Person."

"Magistrate" includes a Justice of the Peace for the Town of Calcutta, and any person exercising all or any of the powers of a Magistrate. "Magistrate."

"the commissioners" mean, in respect of Calcutta, the Corporation of the Town of Calcutta, and in respect of the Suburbs and Howrah, the Municipal Commissioners appointed or elected under the Bengal Municipal Act, 1884,[c] or any other law for the time being in force relating to municipalities : "The commissioners."

Ben. III of 1884.

"warehouse" means any building or place used for the storing, keeping, pressing or depositing of jute or cotton or other fibre for the time being subject to the operation of this Act. "Warehouse."

PART I.

Licensed Warehouses.

4. No warehouse shall be used for the storing, keeping, pressing or depositing of jute or cotton, unless the owner or occupier thereof shall have previously obtained a license for such use. Existing warehouses not to be used till licensed.

Ben. II of 1872. Ben. V of 1879.

5. From and after the commencement of this Act every license granted to a warehouse under the Jute-warehouse and Fire-brigade Act of 1872[d] or 1879[e] shall be subject to the payment of an annual fee. Such fee shall be determined by the commissioners in accordance with a scale to be fixed from time to time by the Local Government after consulting the commissioners at a special meeting, and shall be paid in such instalments as the commissioners may direct. Fee for license for warehouse.

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[a] See *supra*, p. 46. [b] *i.e.*, the 16th May, 1883.
[c] See Ben. Act III of 1884, s. 2, *infra*, p. 669.
[d] Ben. Act II of 1872 was repealed by Ben. Act V of 1879.
[e] Ben. Act V of 1879 has been repealed by this Act—see *supra*, p. 653.

The Local Government may, at its discretion, fix such scale of fees either—

(1) in proportion to the annual value of the warehouse as it is assessed to the payment of municipal taxes; or

(2) in proportion to the value of the machinery erected, or proposed to be erected, in such warehouse; or

(3) in proportion to such annual value of the warehouse, and to the value of the machinery, taken together.

The Local Government may from time to time, on the recommendation of the commissioners at a special meeting, alter the scale of fees to be paid in respect of warehouses.

License for new warehouse.

6. Any person proposing to use any land for the purposes of a warehouse within the area to which this Act extends shall send to the commissioners a plan of such land and all the buildings thereon, prepared in such manner as the commissioners may direct, and it shall be within the discretion of the commissioners at a special meeting to grant or refuse a license to establish the same.

Such license may be either permanent, or may be granted for such term of years as the commissioners shall think fit.

Every license for a warehouse, to be granted under this section, shall be subject to the following conditions, namely :—

(1) that no loose jute, jute rejections or cuttings, or cotton, shall be stored or screwed or pressed, save within a building constructed of such materials, and on such a plan, as may be approved of by the commissioners;

(2) that no loose jute, jute rejections or cuttings, or cotton, shall be combed or dried except within an enclosure, and that the top or roof of any building or of any hut shall not be used for such combing or drying without the sanction in writing of the commissioners;

(3) that space shall be reserved on land appertaining to the warehouse for the loading or unloading of carts;

(4) that no portion of the warehouse shall be used as a residence, and no artificial light (other than one duly and thoroughly protected) or lucifer matches shall be introduced therein, and that no person shall smoke therein;

(5) that the warehouse shall at all times be open to the inspection of officers duly appointed by the commissioners;

(6) that the engines and furnaces used in the warehouse shall be placed as may be considered necessary by the commissioners;

(7) that an annual fee shall be imposed in respect thereof as provided by the last preceding section.

7. The commissioners shall appoint a sufficient number of officers for the inspection of warehouses within Calcutta, the Suburbs and the municipality of Howrah, respectively; and any officer so appointed, and any superintendent or inspector or sub-inspector of police may enter at any time into any warehouse and may inspect the same. **Inspection of warehouses.**

8. On a change in the occupation of any warehouse, the person entering into occupation of the same shall, within two weeks of his so entering into occupation, give notice in writing to the commissioners of such change of occupation, and shall thereupon pay to the commissioners a fee of two rupees; and his name shall accordingly be substituted in such license for the name of the last occupier. **On change in occupation of warehouse, occupier to give notice.**

If any warehouse is let out in portions, the person so letting it out and entitled to the rent shall, for the purposes of this Act, be deemed to be the occupier.

9. It shall be in the discretion of the commissioners at a special meeting to cancel or to suspend, for such time as they shall think fit, the license of any warehouse in respect of which any one or more of the conditions under which such license is held shall appear to them to have been broken, or in respect of which the provisions of the last preceding section have been broken. **Cancelment or suspension of license.**

PART II.

Penalties.

10. Any person who, without a license, uses any warehouse for keeping or depositing jute or cotton shall be liable, on conviction before a Magistrate, to a penalty not exceeding one hundred rupees for each day during which he may use or continue to use such warehouse as aforesaid. **Penalty for not taking out license.**

11. Any person who, without a license, uses for keeping or depositing jute or cotton any warehouse established after the commencement of this Act shall be liable, on conviction before a Magistrate, to a penalty not exceeding five hundred rupees, and to a further penalty not exceeding fifty rupees for every day during which such warehouse is used for keeping or depositing jute or cotton without a license. **Penalty for establishing warehouse without license.**

12. Any person who uses a warehouse for the keeping or depositing of jute or cotton after the commissioners shall have refused or cancelled a license in respect thereof, or during the time for which such license shall have been suspended, shall be liable, on conviction before a Magistrate, to a penalty not exceeding five hundred rupees, and to a further penalty not **Penalty for using warehouse after refusal of license.**

exceeding one hundred rupees for every day during which any such warehouse may be so used as aforesaid.

Penalty on occupier in case of breach of conditions of license.

13. Whenever any of the conditions under which a license is held in respect of any warehouse have been broken in such warehouse, the person whose name appears on the license as the occupier of such warehouse shall be liable, on conviction before a Magistrate, to have his license cancelled, or to a fine not exceeding five hundred rupees.

Penalty on any person in case of breach of conditions of license.

14. Any person who breaks any of the conditions under which a license is held in respect of any warehouse shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for any one such offence.

Penalty for omitting to give notice on change in occupation.

15. If, on a change in the occupation of any warehouse, the person entering into occupation fail to give the notice required by section 8 of this Act, such person shall be liable, on conviction before a Magistrate, to a penalty not exceeding one hundred rupees.

PART III.

Application of Funds.

Funds how to be applied.

16. The license-fees and penalties received and levied under Parts I and II of this Act shall be applied in the manner following, that is to say:—

Twenty per cent to cost of inspection.

The commissioners shall apply twenty per centum of such fees and penalties received and levied within their respective jurisdictions to the payment of the inspecting officers entertained under section 7 of this Act, and to the payment of all expenses incurred by such commissioners, respectively, in or about the inspection and superintendence of warehouses, and the granting of licenses in respect thereof.

Any balance of such twenty per centum which may remain after payment of such expenses shall be credited to the municipal fund[a] of Calcutta, or of the Suburbs, or of Howrah, as the case may be, and any excess expenditure shall be defrayed by the commissioners from the municipal fund.

Eighty per cent to cost of fire-brigade.

17. The remaining eighty per centum of such fees and penalties shall be paid by the commissioners to the Commissioner of Police for the Town of Calcutta, and shall be applied by him to the maintenance of the fire-brigade as hereinafter provided.

Budget of

18. The Commissioner of Police shall prepare annually, in or before the

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[a] As to the municipal fund of Calcutta, see Ben Act II of 1888, ss 35, 36, *infra*; and as to the municipal fund of Howrah, see Ben Act III of 1884, s. 67, *infra*, p 685.

month of February, a budget or estimate of the receipts and expenditure of the fire-brigade for the year commencing on the first of April next ensuing. fire-brigade to be prepared.

Such budget shall be laid before the commissioners at a meeting, and shall be forwarded by them to the Local Government with such remarks as they shall think fit to record; and it shall be in the discretion of the Local Government to pass, or to reject, or to modify, the estimates of all or any sums entered in the same.

If such budget, as finally passed by the Local Government, shall show a surplus of receipts over expenditure, it shall be in the discretion of the Local Government, subject to the provisions of section 5, to reduce the scale of fees to be paid in respect of warehouses; and, if it shall show a deficit, similarly to increase such scale.

PART IV.

FIRE-BRIGADE.

19. The Commissioner of Police for the Town of Calcutta shall maintain an efficient fire-brigade for the Town and Suburbs of Calcutta and for the Municipality of Howrah. Maintenance of fire-brigade.

20. The Local Government may from time to time make, and, when made, alter or repeal, such general or special orders as it may think fit— Local Government may make orders.

for appointing or removing any member or officer of the force;

for furnishing the fire-brigade with such fire-engines, fire-escapes, horses, oxen, accoutrements, tools and implements as it may think proper;

for building, providing or hiring places for the keeping of the force, engines, horses and appurtenances;

for giving gratuities to persons who have given notice of fires;

for the training, discipline, good conduct, salaries and pensions of the members of the force;

for the speedy attendance of such members with engines and all necessary implements on the occasion of any alarm of fire;

for sending the force, engines and appurtenances beyond the limits of the area to which this Act extends, in order to extinguish fire in the neighbourhood of the said limits;

for imposing and summarily realizing a fine not exceeding one week's wages from any member of the brigade who may infringe these orders;

generally, for the maintenance of the fire-brigade in a due state of efficiency.

Such orders shall be published in the Calcutta Gazette, and shall take effect from such publication.

Powers of fire-brigade in cases of fire.

21. On the occasion of a fire, the Commissioner or Deputy Commissioner of Police, or the chief or other officer in charge of the fire-brigade on the spot, may—

(*a*) remove, or may order any member of the brigade to remove, any persons who by their presence interfere with the due operations of the brigade;

(*b*) by himself or by his men break into or through, or pull down, any premises for the purpose of putting an end to the fire, doing as little damage as possible;

(*c*) cause the mains and pipes of any district to be shut off, so as to give greater pressure of water in the place where the fire has occurred;

(*d*) call on the officer in charge of the Port Commissioners' fire-engine to render such assistance as may be possible, in the case of any fire occurring near the river bank;

(*e*) and, generally, take such measures as may appear necessary for the preservation of life and property.

The Commissioner or Deputy Commissioner of Police or chief officer on the spot in the charge of the brigade may verbally nominate and depute one or more officers of the brigade to act at a distance, and such officer or officers shall have for the time being the like powers as the chief officer himself possesses under this section.

Police-officers to render assistance.

Police-officers of all grades shall be authorized to aid the fire-brigade in the execution of its duties. They may close any street in or near which a fire is burning, and they may, of their own motion or on the request of the chief or other officer of the fire-brigade, remove any persons who interfere by their presence with the operations of the fire-brigade.

Damage done to be deemed damage by fire.

Any damage done by the fire-brigade in the due execution of its duties shall be deemed to be damage by fire within the meaning of any policy of insurance of property in Calcutta or the Suburbs against fire.

No officer of the police or of the fire-brigade shall be held liable to damages on account of any act done by him in the *bonâ fide* belief that such act was required in the proper execution of his duties.

Enquiry into origin of fire.

22. In the case of any fire occurring in Calcutta or the Suburbs, or in the Municipality of Howrah, the chief officer of the fire-brigade shall ascertain the facts as to the origin and cause of such fire, and shall make a report thereon to the Magistrate having jurisdiction in the place in which such fire shall have

occurred, and the said Magistrate, in any case where he may see fit, shall summon witnesses and take evidence in order to the further ascertainment of such facts.

Licenses and Penalties in respect of Fire-works, &c.

23. Within the Town and Suburbs of Calcutta whoever shall let off rockets or send up fire-balloons without a license from the Commissioner of Police, and whoever shall sell fireworks without a license from the Commissioner of Police, for which a yearly fee not exceeding ten rupees shall be payable, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for every such offence. Penalty for letting off rockets and selling fireworks without license.

24. The Commissioner of Police may, at his discretion, withdraw or suspend any license granted by him under the last preceding section : Power to withdraw license.

Provided that a license to sell fireworks shall not be withdrawn or suspended except after thirty days' notice.

25. The powers conferred on the Commissioner of Police in respect of Calcutta and the Suburbs by the two last preceding sections shall be exercised in the Municipality of Howrah by the Magistrate of the district, or the officer in charge of the current duties of the Magistrate's office. Exercise of powers in Howrah.

26. In the event of any rockets being let off or fire-balloons sent up within the precincts of any private premises or compound without the express permission in writing of the Commissioner of Police, or the Magistrate or officer as aforesaid, as the case may be, the occupier or owner, or person under whose immediate control the said premises or compound is, shall be liable to a fine not exceeding fifty rupees, unless he can prove who the person having committed the offence is, and that the offence was committed without his knowledge. Liability of householders.

Miscellaneous.

27. Any sum standing at the credit of the jute-warehouse fund of the Town of Calcutta, or of the Suburbs, at the time when this Act comes into force, may be appropriated, in such proportions as the Local Government may direct, either as a grant to the municipal fund of Calcutta or of the Suburbs for general purposes, or to the purchase of new engines, plant or equipment for the fire-brigade referred to in section 19 of this Act.

28. The funds available for the maintenance of the fire-brigade shall be— Fire-brigade receipts.

(1) the eighty per centum payable under section 17 :

(2) the proceeds of all license-fees and penalties levied under Part IV :

(3) any other funds which the Local Government may grant or appropriate for this purpose.

Local Government may declare the warehousing of any other fibre, besides jute or cotton, to be subject to Act.

29. The Local Government may, on the recommendation of the Commissioners passed by resolution, declare that any other fibre which is stored or deposited in warehouses, besides jute or cotton, shall be warehoused and kept subject to the provisions of this Act.

When such declaration shall have been made in the Calcutta Gazette, this Act shall be read as if the name or names of the said fibre had been printed in addition to the words "jute" or "cotton" in the several sections of this Act wherein the said words "jute" or "cotton" may occur.

Submission of reports.

30. The Commissioners of the several jurisdictions to which this Act extends shall report to the Local Government once a year, at such time as the Local Government shall direct, showing how the provisions of this Act have been carried out, and specifying the warehouses in respect of which licenses have been granted.

The Commissioner of Police for the Town of Calcutta shall make a similar report, showing the working of the fire-brigade during the year, the receipts and expenditure in respect thereof, and the proceedings taken by him under sections 23 and 24 of this Act.

Such reports shall be forthwith published in the Calcutta Gazette.

Power to arrest.

31. Any person committing any offence in respect of which a penalty is provided by section 14 or section 23 of this Act may, if his name and address be unknown, be arrested by any officer of Police and forthwith conveyed before some Magistrate having jurisdiction in the place in which such offence has been committed, or shall be taken to the nearest police-station within the said juri-diction in order that such person may be detained until he can be brought before a Magistrate, or until he shall enter into a recognizance with or without sureties for his appearance before a Magistrate.

Offenders to be brought to trial.

32. Whenever such person shall be taken to a police-station, the officer in charge of such station shall, as soon as possible, but in every case within twenty-four hours, cause him to be conveyed before some Magistrate having jurisdiction in the matter.

Form of license.

33. Every license granted under Part I of this Act shall, as far as possible, be in the form to the schedule to this Act annexed.

Saving of places of manufacture or retail trade.

34. Nothing in this Act shall be deemed to apply to buildings or places wherein small quantities of jute, cotton or other fibre for the time being subject to the operation of this Act are deposited for the purpose of any manufacture or retail trade. The Local Government may from time to time declare, by notification in the Calcutta Gazette, what quantities of jute, cotton or

other fibre as aforesaid shall be deemed to be small quantities within the meaning of this section.

SCHEDULE.

(*See section 33.*)

LICENSE UNDER BENGAL ACT IV OF 1883.

No. of 188 .

The Corporation of the Town of Calcutta (*or the Municipal Commissioners of the Suburbs of Calcutta, or of Howrah, as the case may be*) hereby grant unto this license under Bengal Act IV of 1883 to store and press jute (*or cotton, or other substance, as the case may be*) in premises No. Calcutta (*or the Suburbs of Calcutta or Howrah, as the case may be*), subject to the conditions noted on the back: and they hereby acknowledge to have received the sum of Rs. , being the license-fee due by the said from to 188 in respect of the aforesaid premises, at the rate of Rs. per annum.

Name of owner

Name of occupier

Secretary to the Corporation
(*or to the Municipal Commissioners*).

The day of .

ACT No. V OF 1883.

Received the Lieutenant-Governor's assent on the 26th March, 1883, and the Governor General's assent on the 9th May, 1883.

An Act for the Registration and Control of Porters and Dandeewallas in the Darjeeling and Kurseong Municipalities.

WHEREAS it is expedient to provide for the registration and control of porters and dandeewallas in the Darjeeling and Kurseong Municipalities; It is enacted as follows:— Preamble.

1. In this Act the term "coolie" shall be limited to porters, and to dandeewallas and other persons employed in carrying, drawing or propelling any vehicle. Interpretation.

The term "commissioners" means the commissioners of the municipalities of Darjeeling or Kurseong constituted under the Bengal Municipal Act, 1884,[a] or other Act for the time being in force for the regulation of municipalities. Ben. III of 1884.

[a] See Ben. Act III of 1884, s. 2, *infra*, p. 669.

Commencement.

2. This Act shall come into force in the Darjeeling and Kurseong municipalities respectively when extended thereto by an order of the Lieutenant-Governor published in the Calcutta Gazette.[a] Such order shall specify the date on which this Act shall commence in such municipality, and shall operate to extend the provisions of this Act to such municipality according to its tenor.

The Lieutenant-Governor may, at any time, cancel or modify an order made under this section.

Publication of order.

3. The commissioners shall, within fifteen days of such publication, cause a copy of the order to be deposited in the office of the commissioners, and a copy shall be posted up in a conspicuous position at such office, and in such other places as the commissioners may direct;

and a public proclamation of such order shall be made throughout such municipality by beat of drum.

Appointment of registering officer.

4. The commissioners at a meeting shall, for the purposes of this Act, appoint a registering-officer.

Licensing and registration of coolies.

5. Every coolie personally working for gain within the limits of such municipality shall take out a license and shall thereupon be registered by the registering-officer appointed under the last preceding section, who shall keep a register in which he shall enter the name and residence of every such coolie, and every person applying shall, at all reasonable times, be furnished with a certified copy of such particulars on payment of a fee of eight annas:

Provided always that the provisions of this section shall not apply to any coolie who is hired beyond the limits of the municipality for a period of time not exceeding twenty-four hours, but who performs a portion of the work imposed by such hiring within such limits.

Period of license.

6. The year of registration shall commence on the first day of January of each year, and every license granted on any date within that year shall, subject to the provisions of sections 12 and 20, remain in force to the thirty-first day of December next following and no longer.

Details of license.

7. Every license granted by the registering-officer shall specify the number of the license, and the name and place of abode and age of the coolie to whom such license is granted, and shall further state whether such coolie is licensed to work as—

(*a*) a monthly or other servant for a fixed period of time exceeding twenty-four hours; or

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[a] The Act has been extended to the Darjeeling Municipality with effect from the 15th June, 1883—see notifications dated 25th May and 2nd June, 1883, in Calcutta Gazette, 30th May and 6th June, 1883, Part I, pp. 436 and 461, respectively.

(*b*) a coolie empowered to work by the job, or for any period of time not exceeding twenty-four hours.

Every license shall bear date on the day on which the same shall be granted.

Licensed coolie to wear badge.

8. The registering-officer shall, at the time of granting the license to any coolie empowered to work by the job, or for any period of time not exceeding twenty-four hours, deliver to him a metal badge, upon which shall be marked or engraved a number corresponding with the number of such license. Every coolie to whom such badge is delivered shall at all times, while waiting for hire or during the performance of his duties as such coolie, or while attending before any Magistrate, carry such badge exposed to view.

Penalty for omitting to wear badge.

9. Whenever any coolie empowered to work by the job, or for any period not exceeding twenty-four hours, shall omit to wear such badge exposed to view as aforesaid, he shall be liable to a penalty not exceeding five rupees.

Rates of hire to be fixed and published.

10. The commissioners at a meeting, of which at least seven days' notice shall have been given by beat of drum, may make and publish, in such manner as they think fit, an order specifying the rates of hire in respect of all coolies empowered to work by the job, or for any period not exceeding twenty-four hours. Such rates shall include rates calculated according to distance as well as rates calculated according to time, and such rates may from time to time be varied:

Provided that the list of rates calculated according to distance shall include rates in respect of such places situate beyond the limits of the municipality as may from time to time be determined upon by the commissioners:

Provided further that no such order shall take effect until it has been confirmed by the Lieutenant-Governor and published in the Calcutta Gazette.

A table of the rates of hire legibly written or printed in English, Lepcha, Bhutia, Nagri, Urdu and Bengali shall be affixed in some conspicuous place within the limits of the municipality, and a copy of the same, or such portion thereof as may be deemed sufficient, shall be given to every coolie at the time of registration.

Coolie entitled to payment according to rates fixed, subject to special agreements for lower rates.

11. Every such coolie shall be entitled to receive payment for his hiring in accordance with the rates specified in the order mentioned in the last preceding section:

Provided that nothing in this Act contained shall prevent any such coolie from being bound by any contract into which he may enter to receive payment at a rate lower than that fixed by such order.

Registration

12. Any coolies engaged as a monthly servant, or for some other fixed

of coolies when engaged as monthly servants.

period of time exceeding twenty-four hours, who shall be proved to the satisfaction of the chairman of the commissioners,—

to have deserted from such employment without reasonable cause during the period of his engagement;

or to have been guilty of gross misconduct during such period of time;

or to have wrongfully prevented or endeavoured to prevent any other coolie from accepting employment,

shall be liable to have his license withdrawn or suspended for such period as the chairman may direct.

Penalty for certain offences committed by registered coolies.

13. Every coolie empowered to work by the job, or for any period not exceeding twenty-four hours, who shall, without reasonable excuse,

refuse to accept hire at the rate fixed for such hiring;

or desert from his hiring before being discharged therefrom;

or demand more than the proper rate fixed for such hiring;

or be drunk or make use of insulting or abusive language during the period of, or while waiting for, such hiring;

or wrongfully prevent, or endeavour to prevent, any other coolie from being hired;

or fail to produce his table of rates when required to do so,

shall be liable to a penalty not exceeding ten rupees, or in default of payment to imprisonment not exceeding one month.

Penalty for being unlicensed or lending license to another.

14. Any coolie who shall work as such without being duly registered and licensed, and any coolie who, having a license in force, shall transfer or lend the same, or allow the same to be used by any other person, shall be liable, upon conviction in respect of any one of such offences, to a penalty not exceeding ten rupees, or in default of payment to imprisonment not exceeding one month.

Coolie entitled to have new badge on loss or obliteration of former one.

15. Whenever the writing on any badge shall become obliterated or defaced, so that the same shall not be distinctly legible, and also whenever any badge shall be proved, to the satisfaction of the registering-officer, to have been lost or mislaid, the coolie to whom the license relating to any such badge shall have been granted shall deliver such badge (if he shall have the same in his possession), and shall produce such license to the registering-officer; and such coolie shall then be entitled to have a new badge delivered to him upon payment of such sum of money, not exceeding one rupee, as the registering-officer shall from time to time appoint.

Penalty for neglecting to deliver up badge, lending badge, &c.

16. Upon the expiration or other determination of any license granted to a coolie under this Act, such coolie shall deliver such license, and in the case of a coolie empowered to work by the job, or for any period of time not exceeding twenty-four hours, the badge relating thereto, to the said registering-

officer; and every such coolie who, after such expiration or determination as aforesaid, shall willfully neglect for one week to deliver the same to the said officer, and also every coolie who shall use, or wear, or detain any badge which shall have ceased to be in force, or other than such as shall have been delivered to him under the provisions of this Act, and every coolie to whom any badge shall have been delivered as aforesaid, who shall lend such badge to any other person, and every person who shall wear or use the badge of any other coolie —shall for every such offence be liable to a penalty of five rupees, or in default of payment to imprisonment not exceeding one week. It shall be lawful for the registering-officer, or for any person employed by him for that purpose, to prosecute any coolie so neglecting to deliver up his license or badge at any period, within twelve calendar months, after the expiration of the license.

Penalty for using or having a counterfeit badge.

17. Every coolie or other person who shall, for the purpose of deception, use or wear or have any badge resembling any badge granted under the authority of this Act shall for every such offence be liable to a penalty not exceeding ten rupees, or in default of payment to imprisonment not exceeding one month. And it shall be lawful for any police-officer, or any person employed for that purpose by the registering-officer, to seize and take away any such badge, or any badge used for the purpose of deception as aforesaid, wheresoever the same may be found, and to deliver the same to the registering-officer.

Penalty for not depositing lost or unclaimed property.

18. Every coolie empowered to work by the job, or for any period of time not exceeding twenty-four hours, who shall be in possession of any lost or unclaimed property, shall within twenty-four hours carry such property, if not sooner claimed by the owner thereof, to the nearest police-station, and shall there deposit and leave the same with the sub-inspector or other officer on duty, and any such coolie making default herein shall be liable to a penalty not exceeding five rupees, or in default of payment to imprisonment not exceeding one week.

Conviction to be endorsed on coolie's license. Penalty for failing to produce license.

19. Whenever any coolie shall be summoned to appear before any Magistrate to answer any charge preferred against him under this Act, he shall carry with him his license, and produce the same if required so to do; and any coolie who shall on such requisition fail, without reasonable cause, to produce such license, shall for every such offence be liable to a fine not exceeding five rupees. It shall be lawful for any Magistrate, on conviction of any coolie of any offence under this Act, to endorse on such license the nature of the offence, the date of the conviction and the penalty inflicted.

Revocation or suspension of coolie's license

20. It shall be lawful for any Magistrate before whom any coolie shall be convicted of any offence, whether under this Act or under any other law in

on his conviction of any offence.

force, to revoke the license of such coolie, or to suspend the same for such time as the Magistrate shall think proper, and for that purpose to require the coolie, or any other person in whose possession such license and the badge (if any) thereto belonging shall then be, to deliver up the same; and every coolie or other person who, being so required, shall refuse or neglect to deliver up such license and such badge, or either of them, shall be liable to a penalty not exceeding ten rupees, so often as he shall be so required, and refuse or neglect as aforesaid: and the Magistrate shall immediately send every license and every badge delivered up to him under this section to the registering-officer, who shall cancel such license if it has been revoked by the Magistrate, or, if it has been suspended, shall, at the end of the time for which it shall have been suspended, re-deliver such license with the badge (if it shall have come into the possession of the registering-officer) to the coolie to whom it was granted.

Penalty for refusing to pay legal fare.

21. If any person who shall have hired any coolie shall refuse to pay such coolie, or any authorized agent on his behalf, the proper sum payable for such hiring, it shall be lawful for any Magistrate to order payment of such sum and also such compensation as shall seem reasonable, and, in default of payment, such sum and compensation may be recovered in the same way as fines are recoverable under any Act[a] for the time being in force for the regulation of municipalities.

Jurisdiction.

22. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed, but such Magistrate shall be subject to the provisions of the Code of Criminal Procedure[b] as to the amount of fine or imprisonment he may inflict: X of 1882.

Provided that the provisions of this section shall not apply to section 12 of this Act.

Disposal of fines.

23. All penalties and fines to be levied under this Act shall be placed to the credit of the municipal fund.[c]

ACT No. I OF 1884.[d]

Received the Lieutenant-Governor's assent on the 29th January, 1884, and the Governor General's assent on the 1st March, 1884.

An Act further to amend Bengal Act IV of 1871.

Preamble.

WHEREAS it is expedient further to amend the Pooree Lodging-house

[a] See Ben. Act III of 1884, s. 355, *infra*, and Act X of 1882, ss. 386, *et seq*, in General Acts, 1882 (Pt. I), p. 350

[b] See Act X of 1882, s. 32, in General Acts, 1882 (Pt I), p. 252.

[c] As to this fund, see Ben Act III of 1884, s. 67, *infra*, p. 685.

[d] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2.

en. IV of 871.

Act, 1871,[a] as amended and extended by Bengal Act II of 1879; It is enacted as follows:—

Commencement of Act.

1. This Act shall come into force from the date[b] on which it may be published in the Calcutta Gazette with the assent of the Governor General.

Further modification of Ben. Act IV of 1871.

2. In section 3 of Bengal Act II of 1879 the following clause shall be inserted after the second paragraph thereof:—

[See *supra*, p. 420.]

ACT No. II OF 1884.

Received the Lieutenant-Governor's assent on the 17th March, 1884, and the Governor General's assent on the 22nd April, 1884.

An Act to amend the Calcutta Tramways Act, 1880.

Preamble.

WHEREAS it is expedient to facilitate the construction and regulate the working of tramways within such portions of Calcutta as are not situate within the local limits of the town as defined in the Calcutta Municipal Consolidation Act, 1876,[c] and to make due provision for their general management, supervision and control; and whereas it is necessary to amend the Calcutta Tramways Act, 1880,[d] for the purposes aforesaid; It is hereby enacted as follows:—

en. IV of 876.

en. I of 880.

Construction and commencement of Act.

1. This Act shall be read with, and taken as part of, the Calcutta Tramways Act, 1880.[d]

And it shall come into force from the date[e] on which it may be published in the Calcutta Gazette with the assent of the Governor General.

Definition of "Calcutta."

2. "Calcutta" includes all places within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal, but not the area included within the fortifications of Fort William.

Tramways constructed beyond local limits of the town to be subject to local Government.

3. All tramways constructed in Calcutta, but situate beyond the local limits of the town as defined in the Calcutta Municipal Consolidation Act, 1876,[c] shall be subject to the general management, regulation and control of the Local Government: and the Local Government shall in this behalf exercise all the rights, powers, functions and authorities which would, under the provisions of the Calcutta Tramways Act, 1880,[d] have been exercised by the Corporation, if such tramways had been constructed wholly within the local limits of the town as defined by the Calcutta Municipal Consolidation Act, 1876.[c]

Ben. IV of 1876.

Ben. I of 1880.

Ben. IV of 1876.

Corporation not to have

4. Nothing in this Act shall be construed so as to give the Corporation

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[a] See *supra*, p. 170. [b] *i.e.*, 12th March, 1884.
[c] Ben. Act IV of 1876 has been repealed by Ben. Act II of 1888, but see s. 2 of the latter Act, *infra*.
[d] See *supra*, p. 450. [e] *i.e.*, the 30th April, 1884.

control in respect of tramway outside limits of the town.

any control, power or authority in respect of any tramway or part of a tramway constructed outside the limits of the town as defined by the Calcutta Municipal Consolidation Act, 1876.[a]

Ben IV of 1876.

Retrospective effect of Act as to tramways already constructed.

5. The provisions of this Act and of the Calcutta Tramways Act, 1880,[b] shall apply to any tramway that may have been constructed before this Act comes into force, notwithstanding any omission or irregularity in publishing any notice required to be published under section 4 of the said Calcutta Tramways Act, 1880.

Ben. I of 1880.

ACT No. III OF 1884.[c]

Received the Lieutenant-Governor's assent on the 4th April, 1884, and the Governor General's assent on the 15th April, 1884.

An Act to amend and consolidate the law relating to Municipalities.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to municipalities within the territories subject to the government of the Lieutenant-Governor of Bengal; It is enacted as follows :—

PRELIMINARY.

Short title and commencement.

1. This Act may be called the Bengal Municipal Act, 1884:

And it shall come into force on such date[d] as the Lieutenant-Governor may direct, not being more than three months after the date[e] on which it may be published in the Calcutta Gazette, with the assent of the Governor General.

But any notification, order or rule, and any appointment to an office, may be made, or election held, under this Act at any time after it shall have received the assent of the Governor General, but shall not take effect until the Act comes into force.

Enactments repealed.

2. On the commencement of this Act the enactments specified in the sixth schedule shall be repealed to the extent mentioned in the third column thereof.

But this repeal shall not revive any office, authority or thing abolished by

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[a] Ben. Act IV of 1876 has been repealed by Ben. Act II of 1888, but see s. 2 of the latter Act, *infra*.

[b] See *sup.*, p. 450.

[c] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2.

It has been extended to the Towns of Sylhet, Gauhati and Dibrugarh, under s. 5 of the Scheduled Districts Act, 1874—see Appendix to Assam Supplement.

Ben. Act I of 1888 is (in Bengal) to be read with and taken as part of this Act—see Ben. Act I of 1888, s. 1, *infra*.

[d] The Act came into force on the 1st August, 1884—see Calcutta Gazette, 7th May, 1884, Pt. I, p 587.

[e] *i.e.*, the 7th May, 1884.

any such enactment, or affect the validity of anything done or suffered, or any right, title, obligation or liability accrued, before the commencement of this Act.

And all rules and bye-laws prescribed, assessments, valuations, measurements, divisions and appointments made, powers conferred and notifications published under any such enactment, and all other rules (if any) now in force and relating to the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, conferred and published hereunder.

And all references to any such enactment shall (so far as may be practicable) be deemed to be made to this Act.

And all proceedings now pending, which may have been commenced under any such enactment, shall be deemed to be commenced under this Act.

In respect of all the matters aforesaid the commissioners under this Act shall be substituted for the commissioners elected or appointed under the Bengal Municipal Act, 1876.[a]

Existing municipalities.

3. Every place which has been constituted a municipality under the provisions of the Bengal Municipal Act, 1876,[a] and has not been withdrawn from the operation of the said Act before this Act comes into force, shall, from the time when this Act shall come into force, be deemed to be constituted a municipality under the provisions of this Act.

All property of late commissioners vested in commissioners under this Act.

4. All property, moveable and immoveable, and all interest of any kind whatsoever, derived under any of the enactments specified in the sixth schedule, or otherwise, and vested in, or held in trust for, the late commissioners under the said Bengal Municipal Act, 1876,[a] shall become vested in the commissioners and their successors; and all rights of whatsoever description used, enjoyed or possessed by the late commissioners under any such enactment shall become vested in the commissioners for the purposes of this Act.

Act not to be extended to cantonments without consent of Governor General.

5. Notwithstanding anything contained in section 3, this Act shall not take effect in any cantonment without the consent of the Governor General in Council previously obtained, nor shall the Local Government extend this Act, or any part thereof, to any cantonment without such consent.

Interpretation.

6. In this Act, unless there be something repugnant in the subject or context,—

"Carriage."

(1) "carriage" means any wheeled vehicle with springs, used for the conveyance of human beings, and ordinarily drawn by animals:

"Cart."

(2) "cart" means any cart, hackery or wheeled vehicle with or without

[a] Ben. Act V of 1876 has been repealed by s. 2 of this Act.

springs, ordinarily drawn by animals, and not included in the definition of "carriage:"

"Holding." (3) "holding" means land held under one title or agreement, and surrounded by one set of boundaries:

Provided that where two or more adjoining holdings form part and parcel of the site or premises of a dwelling-house, manufactory, warehouse or place of trade or business, such holdings shall be deemed to be one holding for the purposes of this Act other than those mentioned in clause (*a*) of section 85.

Explanation.—Holdings separated by a road or other means of communication shall be deemed adjoining within the meaning of this proviso:

"House." (4) "house" includes any hut, shop, warehouse or building:

"Immoveable property" and "land." (5) "immoveable property" and "land" include (besides land) benefits arising out of land, houses, things attached to the earth, or permanently fastened to anything attached to the earth:

"Moveable property." (6) "moveable property" means property other than immoveable property:

"Magistrate of the District." (7) "Magistrate of the district" means the Chief Magistrate in a district:

"The Magistrate." (8) "the Magistrate" includes the Magistrate of the district, the Magistrate in charge of a division of the district in which division a municipality is constituted, and every Magistrate subordinate to the Magistrate of the district to whom the Magistrate of the district may have made over any duties under this Act:

"Municipality." (9) "municipality" means any place in which this Act, or any part thereof, is in force:

"Offensive matter." (10) "offensive matter" means dirt, dung, putrid or putrefying substances, and filth of any kind not included in the term "sewage:"

"Owner." (11) "owner" includes—

(*a*) every person who is entitled for the time being to receive any rent in respect of the land with regard to which the word is used, whether from the occupier or otherwise;

(*b*) a manager on behalf of any such person;

(*c*) an agent for any such person;

(*d*) a trustee for any such person:

Provided that no such manager, agent or trustee shall be liable to do anything required by this Act to be done by the owner, nor shall he be subject to any fine for omitting to do such thing, unless he have sufficient funds in his hands as such manager, agent or trustee to do such thing:

"Part." (12) "Part" means a Part of this Act:

(13) "road" means any road, street, square, court, alley or passage, whether a thoroughfare or not, over which the public have a right of way: "Road."

(14) "rubbish" means broken brick, mortar, broken glass, kitchen or stable refuse, or refuse of any kind whatsoever not included in the term "offensive matter:" "Rubbish."

(15) "schedule" means a schedule annexed to this Act: "Schedule."

(16) "section" means a section of this Act: "Section."

(17) "sewage" means night-soil and other contents of privies, drains and cess-pools: "Sewage."

(18) "the Commissioners" means the persons for the time being appointed or elected to conduct the affairs of any municipality under this Act: "The Commissioners."

(19) "year" means a year beginning on the first day of April, or on such other date as may hereafter be fixed for any municipality by the Local Government by notification in the Calcutta Gazette. "Year."

PART I.

Of the Creation of Municipalities.

Existing commissioners and existing rates and taxes temporarily continued.

7. In every place which, in accordance with the provisions of section 3, becomes a municipality under this Act, every person who has been appointed or elected to be a commissioner for such place under the Bengal Municipal Act, 1876,[a] and who is holding office as such commissioner at the commencement of this Act, shall be deemed to be a commissioner duly appointed for such municipality, until such time as the election or appointment of commissioners in respect of such municipality shall take effect under the provisions of this Act. And in every such place in which a rate on the annual value of holdings, or a tax upon persons, or a tax upon carriages and animals, or a fee upon the registration of carts, or tolls on roads or on ferries, or a fee under Bengal Act VI of 1878,[a] may have been levied by the municipal commissioners before the commencement of this Act, it shall be deemed that the said rate, tax, fee or tolls have been duly imposed under this Act, and such rate, tax, fee or tolls shall continue to be levied accordingly until the commissioners at a meeting, with the sanction of the Local Government, shall otherwise direct.

Ben. V of 1876.

Local Government may extend Act.

8. Except as is hereinafter otherwise expressly provided, this Act may be extended by the Local Government by notification published in the Calcutta Gazette, and in the manner prescribed by section 354, to any town

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[a] Ben. Acts V of 1876 and VI of 1878 have been repealed by s. 2 of this Act.

or village not being within the limits of the ordinary original jurisdiction of the High Court at Fort William in Bengal, from such date as may be specified in such notification; and, save as is hereinafter otherwise provided, this Act shall take effect in such town or village on the date so specified, and the said town or village, within the limits mentioned in such notification, shall be deemed to be created a municipality for the purposes of this Act:

Provided that, at least six weeks before publishing any notification as aforesaid, the Local Government shall cause to be published in the town or village concerned a notice of its intention to declare the said town or village to be a municipality, unless good reason to the contrary be shown within one month.

Any objections which may be made to the proposed measure shall be duly considered by the Local Government before it causes to be issued the notification declaring the town or village to be a municipality under this Act.

Every notification declaring a town or village to be a municipality shall specify whether the name of such municipality shall, or shall not, be inserted in the first or second schedule of this Act, and shall further specify, subject to the provisions of section 13, the number of the commissioners of such municipality.

Variation of limits and power to withdraw from operation of Act.

9. The Local Government may, on the recommendation of the commissioners at a meeting, by a like notification, at any time vary the limits of any municipality or subdivide any municipality into two or more municipalities, or withdraw any town, village or land from the operation of this Act, or alter the number of the commissioners of such municipality:

Exclusion of lands or buildings in occupation of Goverment for military or naval purposes.

[a] Provided that the Local Government may at any time, by notification in the Calcutta Gazette, exclude from the limits of any municipality any lands or buildings in the occupation of Government for military or naval purposes.[a]

Conditions on which municipality may be created.

10. This Act shall not be extended to any town or village unless the Local Government shall have been satisfied that three-fourths of the adult male population of such town or village are chiefly employed in pursuits other than agricultural, and that such town or village contains a number of inhabitants, not being less than three thousand, and an average number of not less than one thousand inhabitants to the square mile of the area of such town or village.

[a-a] This proviso to s. 9 has been added (for Bengal) by Ben. Act I of 1888, s. 2—see Ben. Act I of 1888, s. 2, *infra*.

11. The Local Government may, from time to time, by notification in the Calcutta Gazette, declare that any place in which three-fourths of the adult male population are chiefly employed in pursuits other than agricultural shall be united, with any town or village as aforesaid for the purposes of forming a municipality:

Local Government may unite places to a Municipality.

Provided that no such place shall be so united unless some part of such place be situated within the distance of one mile from some part of such town or village.

Every such declaration shall specify the boundaries of every place so to be united.

Every town or village with which any such place is united, and all places so declared to be united with any such town or village, shall be deemed, for purposes of taxation and for all other purposes, to form part of one and the same municipality.

12. Notwithstanding anything hereinbefore contained, whenever the Local Government shall declare any place or places as aforesaid to be united with any town or village for the purpose of forming one municipality, the Local Government may similarly declare that any land by which any such place is separated from the town or village with which it is united, and any land by which any such place is separated from any other such place which is united with the said town or village, shall be deemed to form part of the municipality for all purposes other than those of taxation.

Land between municipality and place united to form part of municipality.

And such declaration shall specify the exterior boundaries of the entire municipality as constituted under this and the last preceding section.

PART II.

Of the Municipal Authorities.

Of the Constitution of the Municipality.

13. The number of commissioners of a municipality constituted before the passing of this Act shall be such number as may be specified in a notification of the Local Government, to be issued immediately after this Act comes into force, and to be published in the Calcutta Gazette or in any subsequent notification under section 9.

Number of commissioners.

The number of commissioners of each municipality created under the provisions of section 8 of this Act shall be such number as is specified in the notification of the creation of such municipality or in any subsequent notification under section 9:

Provided that the number of commissioners of a municipality shall in no case be more than thirty or less than nine:

Provided, further, that no act of the commissioners, or of their officers, shall be deemed to be invalid by reason only that the number of the commissioners did not, at the time of the performance of such act, amount to the number specified in the notifications aforesaid.

Constitution of body of commissioners.

14. Two-thirds of the number of the commissioners of each municipality, fixed by such notification, shall be elected as hereinafter provided by male persons, resident within the limits of such municipality, who shall have attained the age of twenty-one years.

The remaining one-third of such commissioners shall be appointed by the Local Government immediately after the result of the election hereinbefore mentioned shall have been notified to the Local Government, and such appointment shall be deemed to have been made on the date on which such election takes place:

Provided that the number of persons holding salaried offices under the Government, and appointed as municipal commissioners, shall not bear a larger proportion than one-fourth to the total number of commissioners elected and appointed under the provisions of this Part:

Provided also that, in cases where the whole number of commissioners is not evenly divisible by three or by four, the one-third or one-fourth shall be ascertained by taking the number next below the whole number, which is evenly divisible by three or by four, as the number to be divided.

Rules to be laid down for election.

15. For the purposes of the aforesaid election of commissioners, the Local Government, with respect to each municipality, shall lay down such rules, not inconsistent with the provisions of this Act, as it shall think fit in respect of the division, where necessary, of each municipality into wards, and the number of commissioners to be elected for each of such wards, the qualifications required to entitle any person to vote for a candidate for election, and in respect of the mode of election. And the Local Government may at any time cancel any rule made by it under this section:

Provided that every male person who is at the time of such election, and has been for a period of not less than twelve months immediately preceding such election, resident within the limits of a municipality, and who—

(1) has, during the year immediately preceding such election, paid in respect of any of the rates imposed by this Act an aggregate amount of not less than three rupees; or

(2) being a member of a joint undivided family, one of the members of which has, during the year immediately preceding such election,

paid in respect of any of the rates imposed by this Act an aggregate amount of not less than three rupees, is a graduate or licentiate of any university, or holds a certificate as a pleader or a mukhtar, or holds any office or employment carrying a salary of not less than fifty rupees per mensem,

shall be entitled to vote at the election of commissioners of such municipality.

No person who is not entitled to vote at the election of commissioners of a municipality shall be deemed qualified for election to be a commissioner of such municipality.

First election of commissioners.

16. The first election of commissioners under this Act may take place at such time, not being more than six months after this Act comes into force, as the Local Government shall direct.

On failure of election, commissioners to be appointed by Government.

If the persons entitled to elect commissioners for any municipality fail within the time appointed for the first election under this Act, or for every subsequent election within the time prescribed by the rules mentioned in the last preceding section, to elect the whole number of commissioners allotted for election to such municipality, the Local Government may appoint one or more commissioners to complete the number so allotted as aforesaid.

Certain municipalities excluded from elective system.

17. Every municipality mentioned in the first schedule of this Act shall be excluded from the operation of the three last preceding sections; and in any municipality so excluded the whole number of the commissioners shall be appointed by the Local Government; subject, however, to the proviso contained in third clause of section 14.

It shall be lawful for the Local Government at any time to remove the name of any municipality from the said schedule.

Resignation of commissioner.

18. The Local Government may from time to time accept the resignation of any commissioner appointed or elected under this Act.

Removal of commissioner.

19. The Local Government may, if it thinks fit, on the recommendation of the commissioners at a meeting, remove any commissioner appointed or elected under this Act, if such commissioner shall have been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct.

Commissioner who neglects to attend meetings, or convicted of non-bailable offence, to cease to be commissioner.

20. Any commissioner who, without having obtained permission from the commissioners at a meeting, shall have omitted to attend six consecutive meetings of the commissioners,

and any commissioner who shall have been convicted of a non-bailable offence, or shall have been declared insolvent by a competent Court, shall cease to be a commissioner.

Tenure of office of commissioner.

21. Every commissioner shall vacate his office at the end of three years from the date of his appointment or election as such commissioner.

When commissioner may be re-appointed or re-elected.

22. Any person who has resigned the office of commissioner under section 18, or who has ceased to be a commissioner in consequence of his failure to attend meetings, or in consequence of his insolvency, as provided in section 20, may be at any time re-appointed or re-elected a commissioner; but no person removed by the Local Government from his office under section 19, or who has ceased to be a commissioner in consequence of being convicted of a non-bailable offence, may be elected or re-elected a commissioner without the sanction of the Local Goverment.

Appointment of chairman.

23. The Local Government shall appoint the chairman of every municipality mentioned in the second schedule of this Act.

Every municipality, the name of which is not included in the said schedule, shall, at a meeting, elect one of its commissioners to be chairman; or may, at a meeting attended by not less than two-thirds of the commissioners, request the Local Government to appoint a chairman.

The Local Government may at any time remove a chairman appointed by it.

The Local Government may at any time remove the name of any municipality from the said schedule.

Status and tenure of office of chairman.

24. Notwithstanding anything in section 13 contained, every chairman appointed under the last preceding section, if not already a commissioner of the municipality of which he shall have been appointed chairman, shall, from the date of his appointment, during the term of his office, enjoy all the rights and privileges of a commissioner of the municipality to which such appointment relates, but shall not be reckoned in calculating the proportions of one-third and one-fourth under the provisions of section 14.

Every chairman, whether appointed or elected, shall hold office for three years from the date of his appointment or election, and shall be eligible for re-appointment or re-election.

A chairman elected under the last preceding section may at any time be removed from his office by a resolution of the commissioners in favour of which not less than two-thirds of the whole number of the commissioners have given their votes at a meeting specially convened for the purpose.

Election of vice-chairman.

25. The commissioners at a meeting shall elect one of their own number to be vice-chairman. He shall hold office for three years from the date of his election, and shall be eligible for re-election on the expiration of his term of office.

The vice-chairman may at any time be removed from his office by a re-

solution of the commissioners in favour of which not less than two-thirds of the whole number of the commissioners shall have given their votes at a meeting specially convened for the purpose.

Tenure of office under sections 21, 24 and 25.

26. The term of three years mentioned in sections 21, 24 and 25 shall be held to include any period which may elapse between the expiration of the said three years and the date of the next subsequent appointment or election, not being an appointment or election under the next succeeding section.

Appointment or election of commissioner, chairman or vice-chairman for unexpired term of office.

27. If any commissioner, chairman or vice-chairman shall be unable to complete his full term of office, the vacancy caused by his resignation, or removal or death, shall be filled by the appointment or election, as the case may be, of another person; and the person so appointed or elected shall fill such vacancy for the unexpired remainder of the term for which such commissioner, chairman or vice-chairman would otherwise have continued in office.

Allowances of chairman and vice-chairman.

28. The chairman and vice-chairman of any municipality may, if the commissioners think fit, receive such allowances out of the municipal fund as shall from time to time be fixed at a meeting by the commissioners.

Commissioners incorporated.

29. The commissioners shall, in the name of their chairman, by the description of "the chairman of the municipal commissioners of ," be a body corporate, and have perpetual succession, and a common seal, and in such name shall sue and be sued.

Such common seal shall have the name of the municipality engraved thereon in legible characters in the English language, and also in the vernacular of the district.

Of the Property of the Commissioners.

Public roads, &c., vested in the commissioners.

30. All roads, bridges, tanks, ghâts, wells, channels and drains in any municipality (not being private property and not being maintained by Government or at the public expense), now existing, or which shall hereafter be made, and the pavements, stones and other materials thereof, and all erections, materials, implements and other things provided therefor, shall vest in, and belong to, the commissioners.

But the Local Government may, from time to time, by notification, exclude any road, bridge or drain from the operation of this Act, and may cancel such notification wholly or in part:

Provided that, if the cost of the construction of the work shall have been paid from the municipal fund, such work shall not be excluded from the operation of this Act without the consent of the commissioners at a meeting.

Commissioners may, with consent of

31. The commissioners at a meeting may agree with the person in whom the property in any road, bridge, tank, ghât, well, channel or drain is vested

owners, take over and repair roads, &c.

to take over the property therein or the control thereof, and after such agreement may declare, by notice in writing put up thereon or near thereto, that such road, bridge, tank, ghât, well, channel or drain has been transferred to the commissioners.

Thereupon the property therein, or the control thereof (as the case may be), shall vest in the commissioners, and such road, bridge, tank, ghât, well, channel or drain shall thenceforth be repaired and maintained out of the municipal fund.

Existing hospitals, schools, rest-houses, &c., may be vested in the commissioners.

32. Every hospital, dispensary, school, rest-house, ghât and market, not being private property or the property of a religious institution or society, and all medicines, furniture and other articles appurtenant thereto, not being such property which at and after the commencement of this Act shall be found within any municipality, may, by order of the Local Government duly published on the spot, be vested in the commissioners of such municipality; and thereupon all endowments or funds belonging thereto shall be transferred to, and vested in, such commissioners as trustees for the purposes to which such endowments and funds were lawfully applicable at the time of such transfer:

Provided that no such order shall be published until one month after notice of the intention to transfer such property shall have been published in the Calcutta Gazette, and within the municipality in the vernacular language of the district.

Transfer to be conditional in certain

33. If the commissioners at a meeting shall, after publication of the notice mentioned in the last preceding section, object to the transfer to themselves of any hospital, dispensary, school, rest-house, ghât or market, on the ground that their funds cannot bear the charge, then such transfer shall not be made save under such conditions as the commissioners at a meeting may agree to accept.

Power to purchase, lease and sell lands.

34. The commissioners at a meeting may purchase or take on lease any land for the purposes of this Act, and may sell, let, exchange or otherwise dispose of any land not required for such purposes.

Land may be taken up under Land Acquisition Act, 1870.

35. The Local Government, on the application of the commissioners at a meeting that any land be acquired for the purposes of this Act, may, on being satisfied that the commissioners are in a position to pay for such land either at once or in such instalments as the Local Government may think proper, notify, under the provisions of the Land Acquisition Act, 1870,[a] or any similar Act for the time being in force for the acquisition of land for public purposes, that such land is required for a public purpose, and may cause such land to be acquired under the provisions of such Act; and, on payment by the commis- X of 1870.

[a] See General Acts, 1867—76, 2nd Ed., p. 177.

sioners of the compensation awarded under such Act, the land shall vest in them for the purposes of this Act.

36. The commissioners shall be bound to pay to the Government the cost of any land which may be acquired for them on their application under the provisions of the last preceding section. Commissioners to pay cost of such land.

37. The commissioners may enter into and perform any contract necessary for the purposes of this Act. Mode of executing contracts.

Every contract made on behalf of the commissioners of a municipality in respect of any sum exceeding five hundred rupees, or which shall involve a value exceeding five hundred rupees, shall be sanctioned by the commissioners at a meeting, and shall be in writing, and signed by at least two of the commissioners, one of whom shall be the chairman or vice-chairman, and shall be sealed with the common seal of the commissioners.

Unless so executed, such contract shall not be binding on the commissioners.

Of the Mode of transacting the Business of the Municipality.

38. The commissioners shall meet for the transaction of business (if there be any business to be transacted) at their office, or at some other convenient place, at least once in every month, and as often as a meeting shall be called by the chairman, or, in his absence, by the vice-chairman. Commissioners to meet ordinarily once a month;

If there shall be no business to be laid before the commissioners at any monthly meeting, the chairman shall, instead of calling the meeting, give notice of the fact to each commissioner three days before the date which is appointed for the monthly meeting.

39. The chairman, or, in his absence, the vice-chairman, shall call a special meeting on a requisition signed by not less than three of the commissioners. and at other times on special requisition.

40. The chairman, or, in his absence, the vice-chairman shall preside at every meeting, and, in the absence of both the chairman and vice-chairman, the commissioners shall choose some one of their number to preside. Who to preside at meetings of the commissioners.

41. All questions which may come before the commissioners at a meeting shall be decided by a majority of votes, unless otherwise provided in this Act. Questions to be decided by majority.

In case of equality of votes, the president shall have a second or casting vote. Casting vote.

42. No business shall be transacted at any meeting of the commissioners unless such meeting has been called by the chairman or vice-chairman, nor unless a quorum shall be present. Quorum.

A quorum shall be, in any municipality in which the commissioners are more than fifteen, five;

in any other municipality, a number being not less than one-third of the entire number of commissioners.

Adjourned meeting.

If, at the time appointed for a meeting, or within one hour thereafter, a quorum is not present, the meeting shall stand adjourned to some future day to be appointed by the chairman or vice-chairman, and three days' notice of such adjourned meeting shall be given. The members present at such adjourned meeting shall form a quorum, whatever their number may be.

Minutes of proceedings.

43. Minutes of the proceedings of all meetings of the commissioners shall be entered in a book to be kept for the purpose, and shall be signed by the president of the meeting, and such book shall be open to the inspection of the tax-payers.

Powers of chairman.

44. The chairman shall, for the transaction of the business connected with this Act, or for the purpose of making any order authorized thereby, exercise all the powers vested by this Act in the commissioners:

Provided that the chairman shall not act in opposition to, or in contravention of, any order of the commissioners at a meeting, or exercise any power which is directed to be exercised by the commissioners at a meeting.

Chairman may delegate his duties to vice-chairman.

45. The chairman may, by a written order, delegate to the vice-chairman all or any of the duties or powers of a chairman as defined in this Act, subject to such restrictions as may seem fit to him, and may at any time by a written order withdraw or modify the same:

Provided that nothing done by the vice-chairman which might have been done under the authority of a written order from the chairman, shall be invalid for want of or defect of such written order, if it be done with the express or implied consent of the chairman previously or subsequently obtained.

Appointment of subordinate officers.

46. The commissioners at a meeting shall from time to time decide whether a paid secretary, engineer or health officer is required or not, and what number of subordinate officers, servants and collectors of taxes or tolls may be necessary for the municipality, and shall from time to time fix the salaries to be paid to such persons respectively out of the municipal fund, and the allowances to be granted to such persons during absence on leave.

Subject to the scale of establishment decided upon by the commissioners under this section, the chairman shall have power to appoint such persons as he may think fit, and from time to time to remove such persons and appoint others in their places:

Provided that no person shall be appointed to an office the salary of which is fifty rupees per mensem or upwards, without the sanction of the commissioners at a meeting, and that no officer, whose salary is more than twenty rupees per mensem, shall be dismissed without such sanction

47. The commissioners at a meeting, specially convened for the purpose, may, by a resolution in favour of which not less than two-thirds of the commissioners present at such meeting shall have voted, from time to time make rules for—

Commissioners may frame rules for pensions and gratuities or for the creation of a provident or annuity fund.

(*a*) the granting of pensions and gratuities out of the municipal fund; or

(*b*) the creation and management of a provident or annuity fund, for compelling contribution thereto on the part of their officers and servants, and for supplementing such contribution out of the municipal fund;

and may repeal or alter such rules.

The commissioners at a meeting may, from time to time, in accordance with such rules for the time being in force, grant such pensions or gratuities, or grant allowances or annuities out of such provident or annuity fund to any of their officers or servants, as they may see fit.

48. In the case of a Government official employed by the commissioners, the commissioners may—

Pensions, &c., to Government officials.

(1) if his services are wholly lent to them, contribute to his pension, gratuities and leave-allowances in accordance with the rules of the Government Civil Pension and Leave Codes[a] for the time being in force; and

(2) if he devotes only a part of his time to the performance of duties in behalf of the commissioners, contribute as above in such proportion as may be determined by the Local Government.

49. The commissioners may take such security as they may think proper from any officer or servant in their employ.

Security from officers or servants.

Of Ward Committees.

50. The commissioners at a meeting may divide any municipality into wards, and thereupon appoint, or cause to be elected, for each ward, not less than three proper persons, whether such persons be or be not commissioners for the time being, to be members of the ward committee; and the commissioners at a meeting may define the limits of the ward for which any ward committee may be appointed or elected.

Power to appoint ward committees.

51. The commissioners at a meeting may lay down rules, not being inconsistent with the provisions of this Act, in respect of the qualifications required to entitle any person who is not a commissioner to stand as a candidate for such election, and to entitle any person to vote for any candidate, and in respect of the mode of election.

Commissioners may lay down rules for election.

[a] See now the Civil Service Regulations, 1889.

And the commissioners may at any time cancel any rule made by them under this section for such election.

Election of chairman and vice-chairman of ward committee.

52. Each ward committee may, for each year if it sees fit, elect its own chairman and vice-chairman (if necessary) from among its own number:

Provided that, if one or more commissioners are members of the ward committee, the chairman of the ward committee shall be a commissioner.

Commissioners may delegate powers to ward committee.

53. The commissioners at a meeting may delegate to a ward committee such of the powers of commissioners under this Act as to them may seem fit; and such ward committee, within the limits of its ward, as defined by the commissioners at a meeting, may exercise all or any of such powers, and shall be liable to all the obligations imposed by this Act on commissioners in respect of such powers.

All acts done, orders issued and assessments made by ward committees shall be subject to the control and revision of the commissioners at a meeting, who may at any time withdraw all or any of such powers.

Certain sections applicable to transaction of business by ward committees.

54. The provisions of sections 38 to 45 (both inclusive) shall, as far as possible, be applicable to the transaction of business by ward committees, and the commissioners shall sanction the establishments of ward committees in accordance with the provisions of section 46.

Removal, resignation and appointment of members.

55. All questions regarding the removal, resignation and appointment of members of ward committees shall be settled by the commissioners at a meeting.

Liability of Commissioners and Ward Committees.

Personal liability of commissioner or member of ward committee.

56. No commissioner or member of a ward committee shall be personally liable for any contract made, or expense incurred, by or on behalf of the commissioners.

Every commissioner or member of a ward committee shall be personally liable for any wilful misapplication of money entrusted to the commissioners to which he shall knowingly have been a party, and he shall be liable to be sued for the same.

Disqualification of commissioners having share or interest in contracts.

57. No commissioner or member of a ward committee shall have, directly or indirectly, by himself or through others, any share or interest in any contract made with the commissioners; and, if any commissioner shall have such share or interest, he shall thereby become disqualified to continue in office as commissioner, and shall be liable to a fine not exceeding five hundred rupees.

A commissioner shall not be so disqualified by reason only of his having a share or interest in—

(*a*) a contract entered into between the commissioners and any incorpo-

rated or registered company of which such commissioner is a member or shareholder; or

(*b*) any lease, sale or purchase of land, or any agreement for the same; or

(*c*) any agreement for the loan of money, or any security for the payment of money only; or

(*d*) any newspaper in which any advertisement relating to the affairs of the municipality is inserted.

But no such commissioner shall act as commissioner or member of a ward committee, or take part in any proceedings relating to any matter in which he is so interested.

Commissioners disqualified from voting on certain questions.

58. No commissioner or member of a ward committee shall vote on any question which regards exclusively the assessment of himself, or the valuation of his property, or of the property for which he is manager or agent, or his liability to any tax.

Control.

Certain resolutions subject to approval of Government.

59. All resolutions passed by the commissioners under the following sections, that is to say :—

(*a*) under section 23 for the election of a chairman;

(*b*) under section 24 for the removal of a chairman from office;

(*c*) under section 28 for the grant of allowances to a chairman or vice-chairman;

(*d*) under section 47 for the making, repeal or alteration of rules for the grant of pensions or gratuities, or for the creation and management of provident or annuity funds,

shall be subject to the approval of the Local Government.

Copy of minutes to be sent to Magistrate.

60. A copy of the minutes of the proceedings of all meetings of the commissioners referred to in section 43 shall be forthwith forwarded by the commissioners to the Magistrate of the district.

Sanction to appointment of subordinate officers.

61. The appointment by the commissioners of subordinate officers, as provided by section 46, shall be subject to the following rules :—

(*a*) no appointment, of which the salary is two hundred rupees per mensem or upwards, shall be created or abolished without the sanction of the Local Government;

(*b*) no person shall be appointed to, or dismissed from, an office the salary of which is one hundred rupees per mensem or upwards without the sanction of the Commissioner of the division.

Magistrate's power of inspection.

62. The Magistrate of the district, or the Magistrate in charge of the division of the district in which a municipality is situate, may enter on and

inspect, or cause to be entered on and inspected, any immoveable property occupied by the commissioners, or any work in progress under their direction; and may call for and inspect any document which may be, for the purposes of this Act, in the possession or under the control of the commissioners.

Power to suspend action under Act.

63. The Commissioner of the division or the Magistrate of the district may, by order in writing, suspend within the limits of the division or district (as the case may be) the execution of any resolution or order of the commissioners of any municipality, or prohibit the doing within those limits of any act which is about to be done, or is being done, in pursuance of, or under cover of, this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public, or to any class or body of persons.

When a Commissioner or Magistrate makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order or direct that it continue in force with or without modification, permanently or for such period as it thinks fit.

Powers of Local Government in case of default.

64. If at any time it appears to the Local Government, on the report of the Magistrate of the district or of the Commissioner of the division, that the commissioners of any municipality have made default in performing any duty imposed on them by or under this or any other Act, the Local Government may, by an order in writing, fix a time for the performance of that duty.

If that duty is not performed within the period so fixed, the Local Government may appoint the magistrate of the district to perform it, and may direct that the expense of performing it shall be paid, within such time as it may fix, to the Magistrate from the municipal fund.

If the expense is not so paid, the Magistrate, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is from time to time possible, from the balance, in priority to any or all other charges against the same.

Power to supersede commissioners in case of incompetency, default or abuse of powers.

65 If in the opinion of the Local Government, the commissioners of any municipality are not competent to perform, or persistently make default in the performance of the duties imposed on them by or under this Act or otherwise by law, or exceed or abuse their powers, the Local Government may by an order published, with the reasons for making it, in the Calcutta Gazette, declare such commissioners to be incompetent, or in default, or to have exceeded or

abused their powers, as the case may be, and supersede them for a period to be specified in the order.

Consequences of supersession.

66. When an order of supersession shall have been passed under the last preceding section, the following consequences shall ensue:—

(*a*) all the commissioners shall, as from the date of the order, vacate their offices as such commissioners;

(*b*) all the powers and duties of the commissioners shall during the period of supersession be exercised and performed by such person or persons as the Local Government may direct;

(*c*) all property vested in such commissioners shall, during the period of supersession, vest in the Government.

On the expiration of the period of supersession specified in the order it shall be lawful for the Local Government to direct that the municipality shall be entered in the first schedule or the second schedule, or in both the first and second schedules; but otherwise the commissioners shall be re-established by appointment and election, and the persons who vacated their offices under clause (*a*) shall not be deemed disqualified for appointment or election.

PART III.

Of the Municipal Fund.

What shall constitute the municipal fund.

67. All sums received by the commissioners, and all fines paid or levied in any municipality under this Act, and all other sums which, under the sanction of Government, may be transferred to the Commissioners, shall constitute a fund which shall be called the "municipal fund," and shall, together with all property of every nature or kind whatsoever which may become vested in the commissioners, be under their control, and shall be held by them in trust for the purposes of this Act.[a]

Payment on account of interest on loans and establishment.

68. The commissioners shall set apart and apply annually out of the municipal fund,—

(*a*) firstly, such sum as may be required for the payment of the interest which may fall due on any loan contracted by the commissioners;

(*b*) secondly, such sum as they are by this Act required to provide for payment of their own establishment, including such contributions as are referred to in section 48;

(*c*) thirdly, such sum as the Local Government may direct towards the

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[a] As to the municipal fund of Howrah, see also Ben. Act IV of 1883, s. 16, *supra*, p. 656; and as to the municipal fund of Darjeeling, see Ben. Act V of 1883, s. 23, *supra*, p. 666.

cost of audit and towards the cost of establishments in any office of account or in any treasury:

Provided that the total amount which any municipality may be required to pay under clause (*c*) shall not in any year exceed two per centum on the amount of the municipal income for such year.

Purposes to which fund may be applied.

69. After the said sums have been set apart under the last preceding section, the commissioners at a meeting shall, as far as the municipal fund permits, from time to time cause roads, bridges, tanks, ghâts, wells, channels, drains and privies, being the property of the commissioners, to be maintained and repaired, and the municipality to be cleansed.

And may, subject to such rules and restrictions as the Local Government may from time to time prescribe, apply the municipal fund to any of the following purposes within the municipality, that is to say:—

(*1*) the construction and improvement of roads, tramways, bridges, squares, gardens, tanks, ghâts, wells, channels, drains and privies;

(*2*) the supply of water, and the lighting and watering of roads;

(*3*) the erection and maintenance of offices and other buildings required for municipal purposes;

(*4*) other works of public utility calculated to promote the health, comfort or convenience of the inhabitants;

(*5*) the construction and repair of school-houses, and the establishment and maintenance of schools either wholly or by means of grants-in-aid;

(*6*) the establishment and maintenance of hospitals and dispensaries;

(*7*) the promotion of vaccination;

(*8*) the maintenance of a fire-brigade; and,

(*9*) generally, to carrying out the purposes of this Act:

Provided that no portion of the municipal fund shall be applied to the establishment and maintenance of any school, hospital or dispensary, or to the promotion of vaccination, unless such application be sanctioned by the consent of a majority of the commissioners present at a meeting specially convened for considering such application, or held after special notice has been given that such application will be considered at such meeting.

The commissioners may do all things, not being inconsistent with this Act, which may be necessary to carry out the purposes of this section.

Contribution to other municipalities.

70. With the consent of two-thirds of the commissioners obtained in writing, and with the sanction of the Local Government, the commissioners may contribute a portion of the municipal fund towards the expenses incurred in any other municipality, or elsewhere, for any of the purposes mentioned in the last preceding section; or towards the salary of any officer under another

authority whose services are employed by them; and also towards the expenses of making, maintaining and repairing any work for the improvement of a river or harbour (by whomsoever such work may be done).

But no contribution shall be made under this section to any work unless the same is calculated to benefit the inhabitants of the contributing municipality.

Account-books to be kept open and quarterly statement published.

71. The account-books of the municipality shall be open to the inspection of any tax-payer at the office of the commissioners on a day or days to be fixed in each month.

An account showing the receipts and expenditure during the quarter, arranged under the proper heads and duly balanced, shall be prepared immediately after the close of each quarter, and shall, with the account-books, be open to the inspection of any tax-payer.

A similar account shall be prepared for each year as soon as possible after its close, and shall be open to inspection as aforesaid.

Annual estimates to be prepared.

72. The commissioners, at a meeting held at least two months before the close of the year, shall prepare in detail estimates showing the probable receipts and expenditure during the ensuing year and the objects in respect of which it is proposed to incur such expenditure.

Estimates to be published.

73. Copies of the estimates and translations thereof in the vernacular of the district shall be lodged in the office of the commissioners.

During fourteen days after the estimates shall have been so lodged in the said office, of which due notice shall be locally published, the estimates and translations in the vernacular of the district shall be open to inspection at all reasonable times by any tax-payer of such municipality who may desire to inspect the same.

Any written suggestion which may be deposited in the office of the commissioners shall be recorded and laid before them for consideration at the next meeting.

Estimate to be transmitted to Magistrate.

74. After the expiration of the said fourteen days, and after such revision as may appear requisite, the estimates shall be transmitted to the Magistrate of the district.

Magistrate may record remarks.

75. The Magistrate may either forward the estimates to the Commissioner of the division, or may return them to the commissioners with such remarks and suggestions as he shall think fit to record. And the commissioners at a meeting shall take into consideration the Magistrate's remarks, and shall either adopt his suggestions or shall record in writing their reasons for refusing to do so: and the estimates shall thereupon be returned to the Magistrate for transmission to the Commissioner of the division.

Power of Commissioner as to estimates.

76. The Commissioner of the division may either sanction the estimate as it stands, or sanction it after making such alterations therein as may seem to him fit, or may cause it to be returned to the commissioners for such modifications as he may think necessary; and, when such modifications have been made, the estimate shall be re-submitted for ratification to the Commissioner of the division:

Provided that the Commissioner of the division shall not raise the total of the proposed expenditure above the sum shown by the estimate to be at the disposal of the commissioners.

Estimate of expenditure may be revised.

77. The Commissioners at a meeting may, from time to time, revise any estimate of expenditure with the view of providing for any modifications which they may deem it advisable to make in the appropriation of the amount at their disposal, and such revised estimate shall be published and forwarded in the manner hereinbefore prescribed; and the Magistrate and the Commissioner of the division may deal with such revised estimate in the manner provided above.

Disbursement of expenditure sanctioned in estimate.

78. After the estimates of the municipality for the year shall have been sanctioned as above, the commissioners at a meeting may, from time to time, by a general or a special resolution, authorize the expenditure of any sum provided in such estimates, or any part of such sum, for the purpose to which it has been assigned in such estimate.

Notwithstanding anything contained in this section, the Local Government may lay down such rules as it may think fit limiting or regulating the powers of any Municipality in respect to the expenditure of money for purposes which are provided for in the budget estimates of the year.

Power of Local Government, if work estimated to cost more than five thousand rupees.

79. If any work is estimated to cost above five thousand rupees, the Local Government may require the plans and estimates of such work to be submitted for its approval, or for the approval of any officer of Government, before such work is commenced;

and may require statements of the progress and completion of such work, with accounts of the expenditure on the same, to be submitted from time to time, in such form as it may prescribe, for its approval, or for the approval of such officer.

Disbursement of excess expenditure.

80. It shall not be lawful for the commissioners to authorize the expenditure on any object during the year of a sum in excess of that which has been sanctioned in the estimate of the year, or in a revised estimate, for such object; but, if it be found necessary in the course of the year, the commissioners may recommend to the Commissioner of the division that the allotments which have been made to the different heads of the estimate shall be modified by

transfer of any amount from one head to another, and the Commissioner of the division may sanction such transfers of allotment.

81. The commissioners shall, at such time and in such form as the Local Government shall direct, furnish annually a report of their proceedings and statements of the works executed by them, and of all sums received and expended by them.

An annual report of proceedings, &c., to be submitted.

The report and any orders which may be passed thereon by Government shall be open to the inspection of the tax-payers at the office of the commissioners, with the account-books and the quarterly and the annual accounts.

82. The municipal accounts shall be kept in such form, and shall be audited each year in such manner as the Local Government shall direct.

Form and audit of accounts.

83. Unless the Local Government shall otherwise direct, all sums received on account of the municipal fund shall be paid into a Government treasury, or into any bank or branch bank used as a Government treasury in or near to the municipality, and shall be credited to an account to be called the account of the municipality to which they belong:

Custody of the municipal fund.

Provided that the commissioners may invest any moneys not required for immediate use either in Government securities, or in any other form of security which may be approved of by the Local Government.

84. Unless the Commissioner of the division shall expressly extend (as he is hereby empowered to do, on the recommendation of the commissioners at a meeting) the limit of the powers of the chairman or vice-chairman in this behalf, all orders for the payment of money from the municipal fund, if for a sum not above five hundred rupees, shall be signed by the chairman or vice-chairman; and all orders for larger sums by both of the said officers, or by one of the said officers and another commissioner.

Orders for payment of

No such orders shall be issued otherwise than for the payment of money of which the expenditure has been authorised by the commissioners at a meeting, as provided in section 78.

PART IV.

Of Municipal Taxation.

85. The commissioners may, from time to time, at a meeting convened expressly for the purpose, of which due notice shall have been given, and with the sanction of the Local Government, impose within the limits of the municipality one or other, but not both, of the following taxes:—

Alternative tax upon person or holdings.

(*a*) a tax upon persons occupying holdings within the municipality

according to their circumstances and property within the municipality:

Provided that the amount assessed upon any person in respect of the occupation of any holding shall not be more than eighty-four rupees per annum; or

(*b*) a rate on the annual value of all holdings situated within the municipality:

Provided that such rate shall not exceed seven and a half per centum on the annual value of such holdings, except within the municipalities of Dacca and Darjeeling, in which it shall not exceed ten per centum on such annual value; and provided also that no rate shall be imposed on any holding of which the annual value is less than six rupees.

Additional taxes.

86. The commissioners may, from time to time, at a meeting convened as aforesaid, and with the sanction of the Local Government, order that the following tax, fee, tolls and rates, or any of them, be levied within the limits of the municipality in addition to either of the taxes mentioned in the last preceding section:—

(*a*) a tax on carriages, horses and other animals named in the fifth schedule;

(*b*) a fee on the registration of carts;

(*c*) tolls on ferries and (subject to the provisions of sections 158 and 159) tolls upon bridges and metalled roads;

(*d*) a water-rate not exceeding six per centum on the annual value of holdings when the houses and lands are situated in streets supplied with water, and not exceeding five per centum when the houses and lands are situated in streets not so supplied;

(*e*) a lighting-rate not exceeding three per centum on such annual value;

(*f*) a fee for the cleansing of latrines.

Provided that the taxes mentioned in clauses (*d*), (*e*) and (*f*) shall not be levied in any municipality unless the provisions of Part VII in respect of clause (*d*), or of Part VIII in respect of clause (*e*), or of Part IX in respect of clause (*f*), shall have been extended wholly or partly to such municipality in the manner hereinafter provided.

Of the Tax on Persons.

Assessment list to be prepared.

87. When it has been determined that a tax shall be imposed on persons occupying holdings within the municipality, according to their circumstances

and property, the commissioners, after making such enquiries as may be necessary, shall cause to be prepared an assessment list which shall contain the following particulars, and any others which the commissioners may think proper to include:—

(*a*) name of the street or road in which the holding is situated;

(*b*) number of the holding on the register;

(*c*) name of the person occupying the holding, whether such person be assessed or exempted from assessment;

(*d*) description of the holding, and of the property within the municipality, and the profession or business of the person assessed;

(*e*) amount of annual assessment;

(*f*) amount of quarterly instalment;

(*g*) if the occupier of the holding is exempted from assessment, a note to that effect.

The tax upon persons shall be payable in quarterly instalments by persons occupying holdings.

Such tax shall not be assessed or levied on any person in respect of the occupation of arable lands or of any building which is used exclusively as a place of public worship.

Duration of assessment.

88. Save as is herein otherwise provided, every assessment of the tax upon persons shall take effect from the beginning of the year next following that in which the notice required by section 112 is published, and shall be valid for three years and until the beginning of the year next after the date on which a new assessment or valuation may be published, or until the assessment and valuation be revised and amended:

Provided that, when this Act is extended to any place, the first assessment may take effect from the beginning of the quarter next following that in which the said notice shall be published.

Assessment of public buildings.

89. In any municipality in which the tax on persons is imposed, no tax shall be assessed on any person in respect of his occupation of any holding which is the property of Government and used for the purposes of a public building, but a rate not exceeding seven and a half per centum may be assessed on the annual value of every such holding, to be ascertained in the manner prescribed by section 101, and such rate shall be payable by Government.

Procedure if aggregate amount of rates assessed

90. Whenever any tax shall have been assessed on any person in respect of his occupation of two or more holdings, and the aggregate of the amount so assessed upon him shall exceed eighty-four rupees per annum, such person

on any person exceeds eighty-four rupees per annum.

may, within fifteen days of the publication of the notice required by section 112, apply to the commissioners to cancel such assessment, and to substitute for the total amount of tax so assessed upon him, in respect of the said holdings, a rate to be calculated at seven and a half per centum on the annual value of such holdings; and the commissioners shall thereupon substitute such rate; and, for the purpose of calculating the amount of such rate, shall determine the annual value of the said holdings in the manner prescribed by section 101.

Every rate imposed under this section shall be payable by the occupier of the holdings so rated.

Power of exemption.

91. The commissioners may exempt from assessment any person who may by them be deemed too poor to pay the tax; but the name of the occupier of every holding shall be included in the assessment-list, whether he be assessed or exempted from assessment.

Power to apply for reduction of assessment in altered circumstances.

92. If any person mentioned in the assessment-list shall, at any time after the publication thereof, have ceased to occupy any holding in respect of the occupation of which he has been assessed, or if the means and property in respect of which he has been so assessed shall have been reduced, the commissioners may on his application exempt him from his assessment, or may revise the same; and such exemption or revision shall take effect from such date as the commissioners may direct.

Power to alter assessment.

93. The commissioners may, at any time after the publication of the notice required by section 112, assess any person who was without authority omitted from the assessment-list, or whose liability to assessment has accrued thereafter, and may enhance any assessment which appears to them to be inadequate, and to have been so made owing to mistake or fraud.

Any assessment or enhancement made under this section shall take effect from the beginning of the quarter next following that in which such assessment or enhancement is made.

Procedure on change of occupation.

94. The commissioners may at any time substitute for any name mentioned in the assessment-list the name of any new occupier of a holding, and may assess the tax on such person, and such person shall be liable to pay such assessment from the date on which his occupation of the holding commenced.

Assessment on vacant holdings when to cease.

95. If any holding shall become vacant in course of the year, the assessment on account of the occupation of such holding shall cease to have effect from the first day of the quarter next following that in which it became vacant.

Of the Rate on the value of Holdings.

96. When it has been determined that a rate shall be imposed on the annual value of holdings, the commissioners, after making such enquiries as may be necessary, shall determine the valuation of all holdings within the municipality as hereinafter provided.

Commissioners to determine the valuation of holdings.

97. Save as is herein otherwise provided, such valuation shall be valid for three years from the date on which it first takes effect in the municipality, and until the beginning of the year next after the date on which a new valuation may be made, or until the valuation be revised and amended.

Duration of assessment.

98. The rate on the value of holdings shall not be assessed or levied on any holding which is used exclusively as a place of public worship, or which is duly registered as a public burial or burning ground under section 254.

Buildings exempted from tax.

99. The commissioners, in order to prepare the valuation-list, may, whenever they think fit, by notice, require the owners or occupiers of all holdings to furnish them with returns of the rent or annual value thereof; and the commissioners, or any person authorized by them in that behalf, at any time between sunrise and sunset, may enter, inspect and measure any such holding after having given forty-eight hours' previous notice of their intention to the occupier thereof.

What returns may be required for ascertaining annual value.

100. Whoever refuses or fails to furnish any such return for the space of one week from the day on which he shall have been required to do so, or knowingly makes a false or incorrect return, shall be liable to a fine not exceeding twenty rupees, and to a further daily fine not exceeding five rupees for each day during which he shall omit to furnish a true and correct return; and whoever hinders, obstructs or prevents any commissioner, or any person appointed by the commissioners as aforesaid, from entering, or inspecting or measuring any such holding shall be liable to a fine not exceeding two hundred rupees.

Penalty for default in furnishing return.

101. The gross annual rent at which any holding may be reasonably expected to let shall be deemed to be the annual value thereof, and such value shall accordingly be determined by the commissioners, and entered in the valuation-list:

Annual value of holding how to be ascertained.

Provided that, if there be on a holding any building or buildings the actual cost of erection of which can be ascertained or estimated, the annual value of such holding shall in no case be deemed to exceed an amount which would be equal to seven and a half per centum on such cost, in addition to a reasonable ground-rent for the land comprised in the holding:

Provided also that, where the actual cost so ascertained shall exceed one lakh of rupees, the percentage on the annual value to be levied in respect of so much of the cost as in excess of one lakh of rupees shall not exceed one-fourth of the percentage determined by the commissioners under section 102:

Provided further that, in estimating the annual value of a holding under this section, the value of any machinery that may be on such holding shall not be taken into consideration.

Determination of rate of tax on holdings.

102. Subject to the provisions of section 85, the commissioners, at a meeting to be held before the close of the year next preceding the year to which the rate will apply, shall determine the percentage on the valuation of holdings at which the rate shall be levied, and the percentage so fixed shall remain in force until the order of the commissioners determining such percentage shall be rescinded, and until the commissioners at a meeting shall determine some other percentage on the valuation of holdings at which the rate will be levied from the beginning of the next year:

Provided that, when this Act is first extended to any place, the first rate may be levied from the beginning of the quarter next after that in which the percentage has been fixed by the commissioners at a meeting.

Preparation of valuation and rating list.

103. As soon as possible after the percentage at which the rate is to be levied for the next year shall have been determined under the last preceding section, the commissioners shall cause to be prepared a valuation and rating list, which shall contain the following particulars, and any others which the commissioners may think proper to include:—

(*a*) name of the street or road in which the holding is situated;
(*b*) number of the holding on the register;
(*c*) description of the holding;
(*d*) annual value of the holding;
(*e*) name of owner;
(*f*) amount of rate payable for the year;
(*g*) amount of quarterly instalment;
(*h*) if the holding is exempted from assessment, a note to that effect.

The rate upon holdings shall be payable in quarterly instalments by the owner of the holding.

Power to assess upon a house consolidated tax for house and land on which it stands.

104. If any house belongs to one owner, and the land on which it stands and any adjacent land which is usually occupied therewith belongs to another, the commissioners may value such house and land together and may impose thereon one consolidated rate.

The total amount of the rates shall be payable by the owner of the house,

who shall thereafter be entitled to deduct from the rent which he pays for the land such proportion of the rate so paid by him as is equal to the proportion which such rent bears to the annual value of the holding.

If the owner of the house and the owner of the land do not agree in respect of the proportion of the rate so deducted by the owner of the house, the commissioners shall, on the application of either party, make an award declaring the amount payable by each, and such award shall be final.

Tax due from non-resident owner may be recovered from occupier and deducted by him from his rent.

105. If the sum due from the owner of any holding remains unpaid after the notice of demand has been duly served, and such owner be not resident within the municipality, or the place of abode of such owner be unknown, the same may be recovered from the occupier for the time being of such holding, who may deduct, from the next and following payments of his rent, the amount which may be so paid by or recovered from him:

Provided that no arrear of rate which has remained due from the owner of any holding for more than one year shall be so recovered from the occupier thereof.

Power of commissioners in cases of excessive hardship.

106. Whenever, from the circumstances of the case, the levy of the rate on any holding in the municipality would be productive of excessive hardship to the person liable to pay the same, the commissioners at a meeting may reduce the amount payable on account of such holding, or may remit the same.

Application for reduction of assessment.

107. If the value of any holding shall be diminished from any cause beyond the control of the owner thereof, the owner thereof may apply for reduction of the valuation of the same.

Power to revise valuation and assessment.

108. The commissioners may, at any time after the publication of the notice required by section 112, value and rate any holding which was without authority omitted from the valuation and rating list, or which has become liable to valuation and rating after the publication thereof; and may enhance the valuation and rating of any holding which may appear to have been insufficiently valued or rated through mistake, oversight or fraud; and may re-value and re-assess any holding the value of which has been increased by additions or alterations to any building thereon.

Any rate imposed or enhancement made under this section shall take effect from the beginning of the quarter next following that in which the rate shall be imposed or enhancement made.

Power to revise assessment-list.

109. The commissioners may, at any time, substitute for any name mentioned in the valuation and rating list the name of any person to whom any holding mentioned therein shall have been transferred.

Such person shall be liable to pay the rate payable on such holding from the first day of the quarter next after the date of the transfer.

Remission or refund on account of vacant holdings.

110. When any holding has been vacant for sixty or more consecutive days during any year, the commissioners shall remit, and, if the rate has been paid, shall refund, one-half of so much of the rate of that year as may be proportionate to the number of days the said holding has remained unoccupied:

Provided that the owner of such holding, or his agent, has given to the commissioners notice in writing of the vacancy thereof, and that the application for refund is made within six months from the date on which such notice is delivered at the office of the commissioners.

The amount of tax to be remitted or refunded shall be calculated from the date of the delivery of such notice.

Penalty.

111. Whoever, being the owner of any holding for which a remission or refund of the rate has been made under the last preceding section, fails to give notice of the re-occupation of such holding within ten days of such re-occupation, shall be liable to a fine not exceeding three times the amount of rate payable quarterly on such holding.

Of General Provisions relating to the Tax on Persons and the Rate on Holdings and to the Recovery of the same.

Publication of notice of assessments.

112. When the assessment-list of the tax upon persons, or the valuation and rating list of the rate on the annual value of holdings, shall have been prepared or revised, the chairman shall sign the same, and shall cause it to be deposited in the office of the commissioners, and shall cause the notice in form A or the notice in form B of the third schedule (as the case may be) to be published in the manner prescribed by section 354.

Application for review.

113. Any person who is dissatisfied with the amount assessed upon him, or with the valuation or rating of any holding,

or who disputes his occupation of any holding, or his liability to be assessed or rated,

may apply to the commissioners to review the amount of assessment, valuation or rating, or to exempt him from the assessment or rate.

Procedure upon review.

114. Every application presented under the last preceding section shall be heard and determined by not less than three commissioners, who shall be appointed in that behalf by the chairman. The commissioners so appointed, after making such inquiries as they may deem necessary, may pass such order as they shall think fit in respect of such application.

The decision of such commissioners, or of a majority thereof, in such cases shall be final.

Limitation of time for

115. Unless good cause shall be shown to the satisfaction of such commissioners for extending the time allowed, and save as is otherwise expressly

provided in this Act, no such application shall be received after the expiration of one month from the date of publication of the notice required by section 112 relating to the list containing the assessment, valuation or rating in respect of which the application is made, or after the expiration of fifteen days from the date of service of the first notice of demand for payment at the rate in respect of which the application is made, whichever period shall last expire. **Application of review.**

116. No objection shall be taken to any assessment or rating, nor shall the liability of any person to be assessed or rated be questioned, in any other manner or by any other authority than in this Act is provided. **Assessment to be questioned only under Act.**

117. By notification to be posted up in their office, the commissioners shall declare at what hours of each day (not being a Sunday or other recognized holiday) the office shall be open for the receipt of money and the transaction of business. **Office hours for payment of taxes.**

118. The amount due by any person on account of the tax on persons, or the rate on holdings, shall be deemed to be the amount entered in the lists, the notice relating to which is published under section 112, unless the amount entered in such lists is subsequently altered by the commissioners as provided in this Act; in which case the amount to which the assessment or rating is so altered shall be deemed to be the amount due. **Tax payable in advance.**

Every instalment of such tax or rate shall be deemed to be due on the first day of the quarter in respect of which such instalment is payable.

119. For all sums paid on account of any tax or rate under this Act a receipt stating the amount and the tax or rate on account of which it is paid shall be given, signed by the tax-collector, or by some other officer authorized by the commissioners to grant such receipts. **Receipts to be given.**

120. At any time within six months after any sum has become due on account of any tax or rate, the commissioners shall cause to be presented to the person liable to the payment thereof a bill for the said sum, which shall contain a statement of the period and of the tax or rate on account of which the charge is made. **Bill and notice of demand to be presented.**

If the amount mentioned in such bill be not paid on presentation thereof, a notice of demand in the form marked A in the fourth schedule, with copy of the bill appended thereto, shall be served on the person liable to pay the same, and such notice of demand may be served at any subsequent time:

Provided that no charge shall be made in respect of the service of such notice.

Such notice shall be signed by the chairman or an officer authorized in that behalf, and shall be served by a person authorized to receive payment.

If not paid in fifteen days, process of distress may issue.

121. If any person, after service upon him of such bill and notice, shall not, within fifteen days of the service of such notice or from the date of any order made on an application for review under section 114, pay the sum due, either to the commissioners at their office or to some person authorized by them to receive the money, or show to the commissioners sufficient cause for not paying the same, the amount of the arrear due, with costs on the scale shown in the table of fees marked B in the fourth schedule, may at any time within three months after the date of service of the said notice, or of the order made on an application for review as aforesaid, be levied by distress and sale of any moveable property belonging to the defaulter, except ploughs, plough-cattle, tools or implements of agriculture or trade, wherever found, or of any moveable property belonging to any other person, subject to the same exceptions, which may be found within the holding in respect of which such defaulter is liable to such tax or rate.

If the said property or any part thereof belong to any person other than the defaulter, the defaulter shall be liable to indemnify the owner thereof for any damage he may sustain by reason of such distress, or by reason of any payment he may make to avoid such distress or any sale under the same.

Distress how to be made.

122. Every warrant of distress and sale under the last preceding section shall be issued by the commissioners, and shall be in the form marked C in the fourth schedule.

Distress shall be made by actual seizure of moveable property, and the officer charged with the execution of the warrant shall be responsible for the due custody thereof.

Such officer shall make an inventory of all moveable property seized under the warrant, and shall give not less than ten days' previous notice of the sale, and of the time and place thereof, by beat of drum, in the municipality or ward in which the property is situated, and by serving on the defaulter a notice in the form marked D in the fourth schedule :

Provided that, if the property is of a perishable nature, it may be sold at once with the consent of the defaulter, or without such consent at any time after the expiry of six hours from the seizure.

Officer may break open door.

123. The officer charged with the execution of the warrant may, under the special order of the commissioners, between sunrise and sunset break open any outer or inner door or window of a house, in order to make the distress, if he has reasonable ground for believing that such house contains any moveable property belonging to the defaulter, and if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance :

Provided that he shall not enter or break open the door of any room appropriated for the zanana, or residence of women, which by the usage of the country is considered private, except after three hours' notice and opportunity given for the retirement of the women.

124. If the sum due be not paid with costs before the time fixed for the sale, or the warrant be not discharged or suspended by the commissioners, the moveable property seized shall be sold by auction, at the time and place specified, in the most public manner possible, and the proceeds shall be applied in discharge of the arrears and costs. Sales how to be conducted.

The surplus sale-proceeds (if any) shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the commissioners or in a Court of competent jurisdiction.

The tax-collector or other officer authorized in that behalf shall make a return of all such sales to the commissioners in the form marked E in the fourth schedule. Return of sales.

125. All officers and servants of the commissioners, and all chaukidars, constables and other officers of police are prohibited from purchasing any property at any such sale. Certain persons prohibited from purchasing at sales.

126. The commissioners shall cause a regular account to be kept of all distresses levied, and sales made, for the recovery of taxes under this Act. Commissioners to keep account of distress and sales.

127. If no sufficient goods or chattels belonging to a defaulter, or being upon the premises in respect of which he is assessed or rated, can be found within the municipality, the Magistrate may, on the application of the commissioners, issue his warrant to any officer of his Court for the distress and sale of any personal property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the distress and sale of any personal property belonging to the defaulter within the jurisdiction of any other Magistrate whatsoever, and such other Magistrate shall endorse the warrant so issued, and cause it to be executed, and the amount, if levied, to be remitted to the Magistrate issuing the warrant, who shall remit the same to the commissioners. Sale of property beyond limits of municipality.

128. No distress or sale made under this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any error, defect or want of form in the bill, notice, summons, warrant of distress, inventory or other proceeding relating thereto. Distress or sale not unlawful for want of form.

129. Instead of proceeding by distress and sale, or in case of failure to realize thereby the whole or any part of any tax, the commissioners may sue the person liable to pay the same in any Court of competent jurisdiction. Commissioners may bring suit instead of distraining or on failure of distress.

Irrecoverable taxes.

130. The commissioners may order to be struck off the books the amount of any tax or rate which may appear to them to be irrecoverable.

Of the Tax on Carriages, Horses and other Animals.

Tax on carriages, horses and other animals.

131. When it has been determined that a tax on carriages, horses and other animals specified in the fifth schedule shall be imposed, the commissioners at a meeting shall make an order that every carriage, horse and every other animal of the kind specified in the said schedule, which is kept or habitually used within, or which is let for hire within or without, the municipality, and habitually used within it, shall pay the tax, and shall cause such order to be published in the manner prescribed by section 354.

Such order shall be published at least one month before the beginning of the half-year in which such tax shall first take effect; and shall specify at what rates, not exceeding the rates given in the said schedule, such tax shall be levied.

But such tax shall not be imposed on—

(*a*) horses or ponies belonging to officers doing regimental duty, at the rate of one animal for each officer;

(*b*) animals exempt from any municipal tax under section 25 of the Indian Volunteers Act, 1869;[a] XX of 1869.

(*c*) carriages or animals belonging to Government, or to the commissioners, or for keeping which for the execution of their duty an allowance is made by the Government or by the commissioners to any of their officers;

(*d*) animals used by, or exclusively for the purposes of, any regiment;

(*e*) horses or ponies used by police-officers, at the rate of not more than one for each officer;

(*f*) carriages the wheels of which do not exceed twenty-four inches in diameter;

(*g*) carriages or animals kept for sale by any *bonâ fide* dealer in such carriages or animals, and not used for any other purpose.

Tax so fixed to continue in force until altered.

132. Any order of the commissioners imposing a tax under the last preceding section shall continue in force until rescinded, and the tax shall be levied at the rates specified in the order published as aforesaid; unless and until the commissioners at a meeting, held not less than fifteen days before the end of the year, make and publish an order specifying any different rates at which the tax shall be payable for the ensuing year.

Licenses how

133. In any municipality in which a tax has been imposed under section

[a] See General Acts, 1867—76, 2nd Ed., p. 136.

131 the owner of every carriage, horse and other animal specified in the said schedule shall, within the first month of each half-year, forward to the commissioners a statement in writing, signed by him, containing a description of the carriages, horses and other animals liable to the tax, for which he is bound to take out a license.

Such owner shall, at the same time, pay to the commissioners such sum as shall be payable by him for the current half-year for the carriages, horses and other animals specified in such statement, according to the rates specified in any order of the time being in force under the two last preceding sections.

134. If any person acquires possession, at any time after the commencement of any half-year, of any carriage, horse or other animal specified in the Schedule, in respect of which no license has been given for such half-year, he shall forward a statement as above required within one month of the date on which he may have acquired possession thereof, and shall pay such amount of the tax as shall bear the same proportion to the whole tax for the half-year as the unexpired portion of the half-year bears to the half-year; and such amount shall be calculated from the date on which such person may have acquired possession as aforesaid.

Proportionate tax on carriages, &c., acquired during half-year.

135. On receiving the amount of the tax due as aforesaid, the commissioners, or some person authorized by them in that behalf, shall give to the person paying the same a license for the several carriages, horses and other animals for the period in respect of which the amount is received.

On payment of tax, commissioners to give a license.

Such license shall be for the current half-year and no longer.

136. Whenever the owner of any carriage, horse or other animal liable to pay the said tax is not resident within the limits of the municipality to the commissioners of which the tax is due, the person in whose immediate possession the carriage, horse or other animal is for the time being kept shall take out a license for the same.

Carriage, &c., liable to tax although the owner be absent.

137. Whoever keeps, or is in possession of, any carriage, horse or other animal, without the license required by any of the three last preceding sections shall be liable to a fine not exceeding three times the amount payable by him in respect of such license, exclusive of the amount so payable.

Penalty.

138. The commissioners, at their discretion, may compound, for any period not exceeding one year, with livery stable-keepers and other persons keeping carriages or animals for hire, for a certain sum to be paid for the carriages or animals so kept by such person, in lieu of the tax at the rates specified in any order made by the commissioners under sections 131 and 132.

Commissioners may compound with livery stable-keepers.

139. The commissioners shall, from time to time, cause to be prepared and entered in a book, to be kept by them, and to be open to the inspection

List of persons licensed

to be prepared.

of any person interested therein, a list of the persons to whom during the then current half-year a license has been given, and of the carriages, horses and other animals in respect of which they have paid the tax.

Power to inspect stable, &c., and to summon persons liable to the payment of the tax.

140. The commissioners, or any person authorized by them in that behalf, may, at any time between sunrise and sunset, enter and inspect any stable, or coach-house, or any place wherein they may have reason to believe that there is any carriage, horse or other animal liable to the tax, for which a license has not been duly taken out.

And the commissioners may summon any person whom they have reason to believe to be liable to the payment of any such tax, or any servant of such person, and may examine such person or servant as to the number and description of the carriages, horses and other animals in respect of which such person is liable to be taxed.

Refund of tax in certain cases.

141. On proof being given to the satisfaction of the commissioners that a carriage, horse or other animal for which a license has been taken out for any half-year has ceased to be kept or to be used within the municipality during the course of such half-year, the commissioners shall order a refund of so much of the tax for the half-year as shall bear the same proportion to the whole tax for the half-year as the period during which such carriage, horse or other animal has not been kept or used in the municipality bears to the half-year; but no such refund shall be allowed unless notice be given to the commissioners within one month of the time when such use of such carriage, horse or other animal ceased, and, except for special cause shown, the commissioners shall pass no order for refund until after the close of the half-year in respect of which the refund is claimed.

Of the Registration of Carts.

Registration and number of carts.

142. The commissioners at a meeting may make and publish an order that every cart which is kept or habitually used within or which is let for hire within or without the municipality and habitually used within it shall be registered by the commissioners with the name and residence of the owner, and shall bear the number of registration in such manner as the said commissioners shall direct:

Provided always that such order shall be published at least one month before the beginning of the half-year in which such order for registration shall be enforced

This section shall not apply to—

(*a*) carts which are the property of the Government or of the commissioners;

(*b*) carts which are kept without the limits of the municipality, and are only temporarily and casually used within such limits;

(*c*) Howrah or the Suburbs of Calcutta.

143. The registration of carts under the last preceding section shall be made, and the numbers assigned yearly or half-yearly, upon such days as the commissioners shall notify; and such fee as they shall from time to time fix and notify, not exceeding four rupees if the registration has effect for a year, and not exceeding two rupees if the registration has effect for half a year, shall be paid for each registration. Fee for registration.

144. Any person becoming possessed of any cart which has not been registered for the then current period of registration shall register the same within one month from the date on which he may have become possessed thereof, and the commissioners shall grant registration in any such case on payment of such amount of the fee as shall bear the same proportion to the whole fee for the current period of registration as the unexpired portion of the current period of registration bears to the whole of such period; and such fee shall be calculated from the date on which such person may have become possessed as aforesaid. Proportionate payment of fee.

145. When the ownership of any registered cart is transferred within any period of registration, it shall be registered anew within one month of the transfer in the name of the person to whom it has been transferred, and a fee not exceeding four annas shall be paid for every such last-mentioned registration. Transfer of ownership.

146. Whoever keeps, or is in possession of, a cart not duly registered as required by any of the three last preceding sections shall be liable to a fine not exceeding three times the amount payable by him in respect of such registration, exclusive of the amount so payable; and whoever, being the owner or driver of any cart, shall fail to affix thereto the registration number as required by section 142 shall be liable to a fine not exceeding five rupees. Penalty.

147. If any person owns or keeps any cart hereinbefore required to be registered without having caused the same to be registered, the commissioners, or any person authorized by them in that behalf, may seize and detain such cart (provided the same be not employed at the time of seizure in the conveyance of any passengers or goods), together with the animals drawing the same; and all police-officers are required, on the application of the commissioners, or of any servant of the commissioners duly authorized in that behalf, to assist in the said seizure. Seizure and sale of unregistered cart.

After such seizure the commissioners shall forthwith issue a notice in writing that after the expiration of ten days they will sell such vehicle and animals by auction at such place as they may state in the notice; and, if any

registration-fee, together with the cost arising from such seizure and custody, remains unpaid for ten days after the issue of such notice, the commissioners may sell the property seized for payment of the said fee, and of all expenses occasioned by such non-payment, seizure, custody and sale.

The surplus sale-proceeds (if any) shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the commissioners or in a Court of competent jurisdiction:

Provided that, if at any time before the sale is concluded the person whose cart has been seized shall tender to the Commissioners, or to the person authorized by them to sell the cart, the amount of all the expenses incurred, and the registration-fee payable by him, the commissioners shall forthwith release the cart so seized.

Notwithstanding anything contained in this section, the surplus of the sale-proceeds of a cart seized under this section may be devoted to the payment of any fine imposed under the last preceding section; and any cart which has been seized under this section may be sold for the realization of any such fine.

Of Tolls on Ferries.

Existing public ferries.

148. The Local Government may, with the consent of the commissioners, make over to the commissioners any existing public ferry within or adjacent to the limits of the municipality, to be administered by them until the Local Government shall otherwise direct.

Every ferry, while so administered, shall be deemed to be a municipal ferry, and the profits derivable therefrom, or such part of the profits as shall be agreed upon between the Local Government and the commissioners, shall be carried to the credit of the municipal fund.

Other ferries may be declared to be municipal.

149. The commissioners may also, with the sanction of the Local Government, declare that any other ferry within, or adjacent to, the limits of the municipality is a municipal ferry, and the profits derivable therefrom shall thenceforward be carried to the credit of the municipal fund:

Provided that due compensation shall be made by the commissioners to any person for the loss which he may have sustained in consequence of such ferry being declared to be a municipal ferry.

The amount of compensation due in such cases shall be ascertained and awarded by the Magistrate under the provisions of section 4 of Bengal Act I of 1866 (*to amend certain provisions of Regulation VI of 1819*), or any similar law for the time being in force.[a]

[a] Ben. Act I of 1866 has been repealed by Ben. Act I of 1885: see now s. 17 of the latter Act, *infra*, p. 766.

150. Every municipal ferry shall be maintained by the commissioners, and they shall do all things necessary to provide for the safety and convenience of travellers, and the safety of property to be conveyed on such ferry. Duties of commissioners in regard to such ferries.

151. When it has been determined to impose tolls on municipal ferries, the commissioners at a meeting shall make and publish an order specifying the ferries, and, with the sanction of the Commissioner of the division, the rates at which such tolls shall be levied. Rate of tolls to be established and published.

Such rates may from time to time be varied with the like sanction.

152. No person shall be liable to pay any toll for crossing any river or stream at or near a municipal ferry, unless he avails himself of the means provided by the commissioners for crossing such river or stream. When persons crossing river not liable to toll.

153. Every lease of a ferry given by the commissioners as hereinafter provided shall be liable to be cancelled at once, if it shall appear to the commissioners at a meeting that the lessee has failed to make due provision for the convenience or safety of the public within fifteen days after being required to do so by a notice in writing from the commissioners. Cancellation of ferry lease, &c.

On the cancelment of a lease the commissioners may take possession of all boats and other appliances which have been used by the lessee in the working of the ferry; and may either retain the same permanently on payment of a fair price to the proprietor, or may retain them for such time as may be necessary, not exceeding three months, until they can make arrangements for such other boats and appliances as may be necessary, in which case the commissioners shall pay a fair sum to the owners for the use of the said boats and appliances:

Provided that, within a week of taking such possession, the commissioners shall be bound to give notice to the said lessee of their intention to retain the said boats and appliances permanently, or for a period to be specified in the notice.

154. Any collector or lessee of tolls, or his agent, may refuse to convey any person or goods across a municipal ferry until the proper toll has been paid, and may require any person who refuses to pay the toll to leave the boat and to remove his goods from it. Toll must be prepaid.

Any person who refuses to leave a municipal ferry-boat or to remove his goods therefrom when required to do so under this section shall be liable to a fine not exceeding ten rupees. Penalty.

155. No person shall keep a ferry-boat for the purpose of plying for hire within a distance of two miles above or below any municipal ferry without the previous sanction, Keeping of unauthorised ferry.

of the commissioners, if he plies within the limits of the municipality,

of the Magistrate of the district, if without such limits,

or of the Magistrate of the district and the commissioners, if one of the two banks between which he plies is within, and the other bank is without, such limits.

This section shall not apply to any private ferry which may be in existence at the commencement of this Act.

Penalty.

156. Whoever keeps a ferry-boat contrary to the provisions of the last preceding section shall be liable to a fine not exceeding fifty rupees, and to a further fine, not exceeding ten rupees, for each day during which the offence is continued after he has been required by a notice in writing to desist from such offence.

Of Tolls on Bridges and Roads.

Existing toll-bars.

157. The Local Government may, with the consent of the commissioners at a meeting, make over to the commissioners any existing toll-bar within the limits of the municipality, to be administered by them until the Local Government shall otherwise direct; every toll-bar while so administered shall be deemed to be a municipal toll-bar, and the profits derivable therefrom, or such part thereof as shall be agreed upon between the Local Government and the commissioners, shall be carried to the credit of the municipal fund.

Commissioners may establish toll-bar.

158. The commissioners at a meeting, with the sanction of the Local Government, may establish a toll-bar and levy tolls on any bridge or metalled road which they may have constructed after the commencement of this Act, or at any place within the municipality adjacent to such bridge or metalled road at which tolls may conveniently be levied on vehicles and animals passing over such bridge or road; and the profits derivable therefrom shall be carried to the credit of the municipal fund:

Provided that no such toll-bar shall be established, or tolls levied, otherwise than for the purpose of recovering the expenses incurred in constructing such bridge or road, and in maintaining such bridge or road in repair for the five years next after the construction thereof, together with interest on such expenses as hereinafter provided.

Commissioners to publish expenses, &c., of toll bars.

159. Whenever a toll-bar shall have been established, and tolls shall be levied, as provided in the last preceding section, the commissioners shall at the end of each year publish, by causing it to be posted up at their office, an abstract account showing—

(1) the amount of expenses incurred in the construction of such bridge or road, and in the maintenance of the same;

(2) the amount of interest which has accrued due thereon, at the annual rate of six per centum; and

(3) the amount which has been received from the profits of the said toll-bars since its establishment.

And, as soon as such expenses and interest shall have been recovered as aforesaid, such toll-bars shall be removed, and tolls shall no longer be levied on such bridge or road.

Rates of tolls to be established and published.

160. When it has been determined that tolls shall be levied on any such bridge or road, the commissioners at a meeting shall make and publish an order, with the sanction of the Commissioner of the division, specifying the rates at which such tolls shall be levied.

Such rates may from time to time be varied with the like sanction.

Power of Collector or lessee in case of refusal to pay toll.

161. Any Collector or lessee of tolls may refuse to allow any person to pass through any municipal toll-bar until the proper toll has been paid.

Penalty for refusing to pay or avoiding payment of toll.

162. Whoever, having driven any vehicle or animal (not exempted from toll) through a toll-gate, refuses to pay the toll, or, with intent to evade payment of the toll, fraudulently avoids passing through such toll-gate, shall be liable to a fine not exceeding fifty rupees.

In case of non-payment of toll, vehicle, &c., may be seized and sold.

163. If the toll due on any vehicle or animal is not paid on demand, the person authorized to collect the same may seize such vehicle or animal, or any part of its burden of sufficient value to defray the toll, and shall give immediate notice of such seizure to the commissioners.

After such seizure the commissioners shall forthwith issue a notice in writing that, after the expiration of ten days, they will sell the property seized by auction at such place as they may state in the notice; and, if any toll, together with the cost arising from such seizure and custody, remain undischarged for ten days after the issue of such notice, the commissioners may sell the property seized, for discharge of the toll, and of all expenses occasioned by such non-payment, seizure, custody and sale.

The surplus sale-proceeds (if any) shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the commissioners or in a Court of competent jurisdiction.

Provided that, if at any time before the sale has been concluded the person whose property has been seized shall tender to the commissioners, or to the officer appointed by them to sell the property, the amount of all the expenses incurred and of the toll payable, the commissioners shall forthwith release the property seized.

Notwithstanding anything contained in this section, the surplus of the sale-

proceeds of any property seized under this section may be devoted to the payment of any fine imposed under the last preceding section; and any property which has been seized under this section may be sold for the realization of any such fine.

Of General Provisions relating to Tolls on Ferries and Roads.

Lease of ferry or toll-bar.

164. The commissioners may grant a lease of any municipal ferry or toll-bar for any period not exceeding three years.

Table of tolls to be hung up.

165. A table of tolls legibly written in the vernacular of the district shall be hung up,

in some conspicuous position at each end of every municipal ferry, and

in some conspicuous position near every municipal toll-bar, so as to be easily read by all persons required to pay the toll.

Penalty.

166. Whoever, being a toll-collector or lessee of a municipal ferry or toll-bar, neglects to hang up a table of tolls as required by the last preceding section, shall be liable to a fine not exceeding fifty rupees, and to a further fine, not exceeding ten rupees, for each day during which the offence is continued after he has been required by a notice in writing to desist from such offence.

Composition in respect of toll.

167. The commissioners, or the lessee of any municipal ferry or toll-bar, may compound with any person for a certain sum to be paid by such person for himself, or for any vehicles or animals kept by him, in lieu of the ordinary toll payable.

Exemptions.

168. No tolls shall be paid for the passage of troops on the march, or of animals or vehicles employed in the transport of such troops;

or of military or Government stores, or the persons in charge of them;

or of military or police officers, or of any public or municipal officer on duty, or of any person in their custody, or of any property belonging to them or in their custody, or of any vehicle or animal employed by such persons for the transport of such property;

or of conservancy carts or other vehicles or animals belonging to the commissioners, or of the persons in charge of them;

or of any animals, whether belonging to Government or otherwise, which are attached to a regiment or a military department, and which pass through a toll-bar:

Provided that tolls shall be leviable for conveying such animals over a ferry.

And the commissioners or their lessees shall not be bound to allow any person or thing not specified above to cross a ferry or to pass a toll-gate without payment of the prescribed toll.

But the commissioners at a meeting may exempt any other class of per-

sons or things from payment of the said toll; and in granting a lease of any ferry or toll-bar may stipulate that any municipal servants and property and other persons or things shall be allowed to pass without payment of the toll.

Police-officers to assist.

169. In all cases of resistance to the person authorized to collect tolls, police-officers shall assist when required, and for that purpose shall have the same powers as they have in the exercise of their ordinary police duties.

Penalty for taking unauthorized tolls.

170. Whoever, being authorized under this Act to collect tolls, demands or takes any higher tolls than the tolls authorized under this Act, shall be liable to a fine not exceeding fifty rupees, and in default of payment to one month's imprisonment.

Commissioners may be appointed to collect tolls in a navigable channel.

Ben. V of 1864.

171. If the Local Government has declared that the provisions of the Canals Act,[a] 1864, or any other similar law for the time being in force, are applicable to any navigable channel which passes through the limits of a municipality, it may, with the consent of the commissioners, appoint the commissioners to collect tolls, as provided in section 8 of the said Act, until the Local Government shall otherwise direct; and the profits derivable therefrom, or such part thereof as shall be agreed upon between the Local Government and the commissioners, shall be carried to the credit of the municipal fund.

In such case the commissioners shall exercise all the powers vested by such Act in the Collector.

Local Government may order commissioners to cease levying tolls.

172. The Local Government may at any time order that the commissioners, or any person authorized by them, shall cease to levy any tolls under the last preceding section, and may at any time withdraw such order.

PART V.

MUNICIPAL REGULATIONS WHICH SHALL BE GENERALLY IN FORCE IN ALL MUNICIPALITIES.

General.

Operation of this Part.

173. The provisions of this Part shall be in force in every municipality, unless and until the Local Government shall otherwise direct.

Local Government may order provisions of this Part to be not in force in any municipality.

174. The Local Government may, at any time, make an order directing that all or any of the said provisions shall not be in force in any municipality or in any part thereof; and the provisions mentioned in such order shall cease to be in force in such municipality, or part thereof, from the date specified in such order.

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[a] See *supra*, p. 21.

The Local Government may at any time cancel or modify any order made under this section.

Procedure, when owners or occupiers required to execute works by commissioners.

175. Whenever it is provided in this Part or in Part VI that the commissioners or the commissioners at a meeting may require the owners or the occupiers, or the owners and occupiers of any land, to execute any work or to do anything within a specified time, such requisition shall be made, as far as possible, by a notice to be served as provided in sections 356 and 357, on every owner or occupier who is required to execute such work or to do such thing; but, if there be any doubt as to the persons who are owners or occupiers, such requisition may be made by a notification to be posted up on or near the spot at which the work is required to be executed or the thing done, requiring the owners or the occupiers, or the owners and occupiers of any land, to execute such work or to do such thing within a specified time; and in such notification it shall not be necessary to name the owners or occupiers.

Every requisition as aforesaid shall give notice to the persons to whom it is addressed that, if they fail to comply with the requisition, or to prefer an objection against such requisition as provided in the next succeeding section, the commissioners will enter upon the land and cause the required work to be executed, or the required thing to be done; and that in such case the expenses incurred thereby will be recovered from the persons who are required in such requisition to execute such work or do such thing.

Person required to execute any work may prefer objection to the commissioners.

176. Any person who is required by a requisition as aforesaid to execute any work or to do anything may, instead of executing the work or doing the thing required, prefer an objection in writing to the commissioners against such requisition within five days of the service of the notice or posting up of the notification containing the requisition; or, if the time within which he is required to comply with the requisition be less than five days, then within such less time.

Except as provided in the next succeeding section, such objection shall be heard and disposed of by the chairman or vice-chairman.

Procedure if person objecting alleges that work will cost more than three hundred rupees.

177. If the objection shall allege that the cost of executing the work or of doing the thing required will exceed three hundred rupees, such objection shall be heard and disposed of by the commissioners at a meeting; unless the chairman or vice-chairman shall certify that such cost will not exceed three hundred rupees, in which case the objection shall be heard and disposed of by the chairman or vice-chairman:

Provided that in any case in which the chairman or vice chairman shall

have certified his opinion as aforesaid, and the objection shall in consequence thereof have been heard and disposed of by the chairman or vice-chairman, the person making the objection may, if the requisition made upon him is not withdrawn on the hearing of his objection, pay in the said sum of three hundred rupees to the commissioners as the cost of executing the work or doing the thing required; whereupon such person shall be relieved of all further liability and obligation, in respect of executing the work or doing the thing required, and in respect of paying the expenses thereof; and the commissioners themselves shall execute such work, or do such thing, and shall exercise all powers necessary therefor.

Chairman, &c., may make order after hearing objection.

178. The chairman or vice-chairman, or the commissioners at a meeting, as the case may be, shall, after hearing the objection and making any inquiry which they may deem necessary, record an order withdrawing, modifying or making absolute the requisition against which the objection is preferred; and, if such order does not withdraw the requisition, it shall specify the time within which the requisition shall be carried out, which shall not be less than the shortest time which might have been mentioned under this Act in the original requisition.

Order to be explained orally.

179. If the person making such objection be present at the office of the commissioners, the said order shall be explained to him orally; and, if such order cannot be so explained, notice of such order shall be served as provided in section 356 on the person making the objection; and such explanation of, or service of, the notice of the said order shall be deemed a requisition duly made under this Act to execute the work or do the thing required.

Power of Commissioners on failure of person to execute work.

180. If the person or persons required to execute the work or to do the thing fail, within the time specified in any requisition as aforesaid, to begin to execute such work or to do such thing, and thereafter diligently to continue the same to the satisfaction of the commissioners until it is completed, the commissioners, or any person authorized by them in that behalf, may, after giving forty-eight hours' notice of their intention by a notification to be posted up on or near the spot, enter upon the land and perform all necessary acts for the execution of the work or doing of the thing required; and the expenses thereby incurred shall be paid by the owners or by the occupiers, if such requisition was addressed to the owners or to the occupiers respectively, and by the owners and the occupiers, if such requisition was addressed to the owners and the occupiers.

Commission-

181. Whenever any expenses incurred by the commissioners are to be

ers may apportion expenses among owners.

paid by the owners of any land as provided in the last preceding section, the commissioners may, if there be more than one owner, apportion the said expenses among such of the owners as are known in such manner as to the commissioners may seem fit.

And whenever any such expenses are to be paid by the occupiers of any land, as provided in the last preceding section, the commissioners may, if there be more than one occupier, apportion the said expenses among such of the occupiers as are known in such manner as to the commissioners may seem fit.

Apportionment among owners and occupiers.

182. Whenever any expenses incurred by the commissioners are to be paid by the owners and occupiers of any land, as provided in section 180, the commissioners may apportion the said expenses among the said owners and occupiers or such of them as are known in such manner as to the commissioners may seem fit.

Occupier may recover cost of works executed at his expense from owner.

183. Whenever any works or any alterations and improvements of which the commissioners are authorized by this Part or Part VI to require the execution are executed by the occupier on the requisition of the commissioners, or are executed by the commissioners, and the cost thereof is recovered from the occupier, the cost thereof may, if the commissioners shall certify that such cost ought to be borne by the owner, be deducted by such occupier from the next and following payments of his rent due or becoming due to such owner, or may be recovered by him in any Court of competent jurisdiction.

Liability to pay expenses or fees may be contested in Civil Court.

184. Any owner or occupier of land may contest his liability to pay any expenses or fees under this Part or Part VI, or may contest the amount which he has been called upon to pay, in a Civil Court of competent jurisdiction :

Provided that the fact of such action having been instituted shall be no bar to the recovery of the said amount, in the manner provided by section 360.

Damages and compensation how to be determined.

185. Where any damages or compensation, other than compensation payable under section 35, are by this Act directed to be paid by the Commissioners, the amount, and, if necessary, the apportionment of the same, shall in case of dispute be ascertained and determined by a Civil Court of competent jurisdiction.

Of Sewage, Offensive Matter, Rubbish, Privies and Drains.

Establish-

186. The commissioners shall provide all establishments, cattle, carts and

implements required for the removal of sewage, offensive matter and rubbish.

ments for removal of sewage, offensive matter and rubbish.

187. The commissioners at a meeting may, from time to time, by an order published as prescribed in section 354, appoint the hours within which it shall be lawful to remove offensive matter and the manner in which the same shall be removed, and may provide places convenient for the deposit thereof, and may require the occupiers of houses to cause the same to be deposited daily, or at other stated intervals, in such places, and may remove the same at the expense of the occupier from any house if the occupier thereof fails to do so in accordance with this Act.

Hours and mode of removal of offensive matter.

188. Whenever such order shall have been published, no mehter or other servant of the commissioners employed to remove or deal with sewage, offensive matter or rubbish shall withdraw from his duties without the permission of the commissioners, unless he has given notice in writing not less than one month previously of his intention so to withdraw.

Mehters must give one month's notice if they leave the service of the commissioners.

Any mehter or other such person who, after the said publication, withdraws from his duties without giving such notice as aforesaid shall be liable to rigorous imprisonment for a term not exceeding one month, and shall forfeit all salary which may be due to him.

189. The commissioners at a meeting may, from time to time, by an order published as prescribed in section 354, appoint the hours within which only every occupier of any house or land may place rubbish on the public road adjacent to his house or land in order that such rubbish may be removed by the commissioners; and the commissioners may charge such fees as they may think fit in respect of the removal of such rubbish, with the consent of the occupier of any house or land, from such house or land or in respect of the removal from such public road of any rubbish which has accumulated in the exercise of a trade or business.

Commissioners may appoint hours for placing rubbish on public road.

190. All drains, privies and cess-pools shall be subject to the inspection and control of the commissioners.

Drains, privies, &c., under control of commissioners.

191. The commissioners, or any officer authorized by them in that behalf, may inspect all privies, drains and cess-pools at any time between sunrise and sunset, after six hours' notice in writing to the occupier of any premises in which such privies, drains or cess-pools are situated, and may, if necessary, cause the ground to be opened where they or he may think fit for the purpose of preventing or removing any nuisance arising from such privies, drains or

Inspection of drains, privies and cess-pools.

cess-pools; and the expenses thereby incurred shall be paid by the owner or occupier of such premises.

Commissioners may direct the use of disinfectants or deodorants for such drains, privies, &c., as are in a noxious state.

192. Whenever the commissioners are satisfied that the existence of such privy, drain or cess-pool is attended with risk of disease to the inhabitants of the neighbourhood, they may direct the use of such disinfectants or deodorants as they shall specify in such privy, drain or cess-pool, in such quantities or for such time as they shall think fit. The commissioners shall, if necessary, themselves supply such disinfectants or deodorants for such use at cost price, and the expense thereby incurred shall be considered as an arrear of tax, and be recoverable as such from the owner of such privy, drain or cess-pool; or the commissioners may, if they think fit, order that such expense shall be paid from the municipal fund.

Common privies.

193. The commissioners may provide and maintain, in sufficient numbers and in proper situations, common privies and urinals for the separate use of each sex, and shall cause the same to be kept in proper order and to be properly cleansed.

Licensing of public necessaries.

194. The commissioners may license such necessaries for public accommodation as they from time to time may think proper.

Power to require owners to clear noxious vegetation and to improve bad drainage.

195. Whenever any land being private property, or within any private enclosure, appears to the commissioners, by reason of thick or noxious vegetation or jungle, or inequalities of surface, to afford facilities for the commission of a nuisance, or by want of drainage to be in a state injurious to health or offensive to the neighbourhood, the commissioners may require the owners or occupiers, or the owners and occupiers, of such land, within fifteen days, to clear and remove such vegetation, or level such surface or drain such land:

Provided that, if for the purpose of effecting any drainage under this section it shall be necessary to acquire any land not being the property of the person who is required to drain his land, or to pay compensation to any other person, the commissioners shall provide such land and pay such compensation.

All rubbish collected to be the property of municipal commissioners.

196. All sewage, rubbish and offensive matter collected by the commissioners from roads, privies, sewers, cess-pools and other places shall be the property of the commissioners, who shall have power to sell or otherwise dispose of the same; and the money arising from the sale thereof shall be carried to the credit of the municipal fund.

Sewers, drains, &c., under control

197. All existing public sewers, drains and other conservancy works shall be under the direction and control of the commissioners, who shall have power

to construct any further works of that nature which they may consider necessary. of the commissioners.

Of Bathing and Washing Places and Tanks.

198. All streams, channels, water-courses, tanks, reservoirs, springs and wells, not being private property, shall, for the purposes of this Act, be under the direction and control of the commissioners. All public streams, &c., to be under direction and control of the commissioners.

199. The commissioners may, by order published at such places as they may think fit, set apart convenient tanks, parts of rivers, streams or channels, not being private property, for the supply of water for drinking and for culinary purposes: and may prohibit therein all bathing, washing of clothes and animals, or other acts calculated to pollute the water set apart for the purposes aforesaid; Commissioners may make provision for drinking water, bathing places, &c.

and may similarly set apart a sufficient number of the same for the purpose of bathing;

and a sufficient number for washing animals and clothes, or for any other purpose connected with the health, cleanliness or comfort of the inhabitants.

The commissioners may similarly take such order as they think fit with the private portion of any stream or channel used as a part of the public water-supply.

200. The commissioners may require the owners or occupiers, or the owners and occupiers of any land, within eight days, or such longer period as the commissioners may fix, to cleanse any water-course, private tank or pool therein, and to drain off and remove any waste or stagnant water which may appear to be injurious to health or offensive to the neighbourhood: Power to require unwholesome tanks on private premises to be cleansed or drained.

Provided that, if for the purpose of effecting any drainage under this section it shall be necessary to acquire any land not being the property of the person who is required to drain his land or to pay compensation to any other person, the commissioners shall provide such land and pay such compensation.

Of Obstructions and Encroachments on Roads.

201. The commissioners may close temporarily any road or part of a road for the purpose of repairing such road, or for the purpose of constructing any sewer, drain, culvert or bridge, or for any other public purpose: Power to close a road or part of a road for repairs or other public purpose.

Provided that the commissioners so closing any road shall be bound to provide reasonable means of access for persons occupying holdings adjacent to such road.

Whenever, owing to such repairs or constructions, or from any other cause, any road or part of a road shall be in a state which is dangerous to passengers, the commissioners shall cause sufficient barriers or fences to be erected for the security of life and property, and shall cause such barriers or fences to be sufficiently lighted from sunset to sunrise.

Removal of future obstructions or encroachments in or on road.

202. The commissioners may issue a notice requiring any person to remove any wall which he may have built, or any fence, rail, post or other obstruction or encroachment, which he may have erected in or on any road or open drain, sewer or aqueduct, after the date on which the District Municipal Improvement Act, 1864,[a] or the District Towns Act, 1868,[a] or the Bengal Municipal Act, 1876,[a] as the case may be, took effect in the municipality; or, in case none of the said Acts was in force in the municipality before the commencement of this Act, then after the date on which this Act may have been extended thereto; and, if such person shall fail to comply with such requisition within eight days of the receipt of the same, the Magistrate may, on the application of the commissioners, order that such obstruction or encroachment be removed; and thereupon the commissioners may remove any such obstruction or encroachment; and the expenses thereby incurred shall be paid by the person who erected the same.

Ben. III of 1864. Ben. VI of 1868. Ben. V of 1876.

No person shall be entitled to compensation in respect of the removal of any wall, fence, rail, post or other obstruction under this section.

Procedure when person who erected obstruction cannot be found.

203. If the person who built or erected the said wall, fence, rail, post or other obstruction or encroachment is not known or cannot be found, the commissioners may cause a notice to be posted up in the neighbourhood of the said wall, fence, rail, post or other obstruction or encroachment, requiring any person interested in the same to remove it, and it shall not be necessary to name any person in such requisition; and, if the said wall, fence, rail, post or other obstruction or encroachment be not removed in compliance with the requisition contained in such notice within eight days of the posting up of the same, the Magistrate may, on the application of the commissioners, order that such obstruction or encroachment be removed; and thereupon the commissioners may remove any such obstruction or encroachment, and may recover the cost of such removal by sale of the materials so removed.

The surplus sale-proceeds (if any) shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the commissioners or in a Court of competent jurisdiction.

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[a] Ben. Acts III of 1864 and VI of 1868 were repealed by Ben. Act V of 1876, and the latter Act has been repealed by this Act—see Sch. VI, *infra*, p. 761.

Projections from houses erected in future to be removed.

204. The commissioners may give notice in writing to the owner or occupier of any house requiring him to remove or alter any projection, encroachment or obstruction erected or placed against or in front of such house which may have been so erected or placed after the date on which the District Municipal Improvement Act, 1864,[a] or the District Towns Act, 1868,[a] or the Bengal Municipal Act, 1876,[a] as the case may be, took effect in the municipality; or, in case none of the said Acts was in force in the municipality before the commencement of this Act, then after the date on which this Act may have been extended thereto, if the same overhangs the road, or juts into, or in any way projects or encroaches upon, or is an obstruction to the safe and convenient passage along any road;

Ben. III of 1864. Ben. VI of 1868. Ben. V of 1876.

or obstructs, or projects, or encroaches into or upon any aqueduct, drain or sewer in such road.

And, if such owner or occupier shall fail to comply with such requisition within eight days of the receipt of the same, the Magistrate may, on the application of the commissioners, order that such projection, encroachment or obstruction be removed or altered, and thereupon the commissioners may remove or alter such projection, encroachment or obstruction, and the expenses thereby incurred shall be paid by the owner or occupier so making default.

No person shall be entitled to compensation in respect of the removal of any projection, obstruction or encroachment under this section.

Effect of order made under sections 202, 203, 204 or 233.

205. Every order made by the Magistrate under sections 202, 203, 204 or 233 shall be deemed to be an order made by him in the discharge of his judicial duty; and the commissioners shall be deemed to be persons bound to execute such orders of a Magistrate within the meaning of Act XVIII of 1850[b] (*for the protection of Judicial Officers*).

Houses projecting beyond line of road or drain, when taken down to be set back.

206. Whenever any house, part of which projects beyond the regular line of a road or drain, or beyond the front of the house on either side thereof, shall be burnt down or otherwise destroyed, or shall be taken down in order to be rebuilt or repaired, the commissioners may require the same to be set back to, or beyond, the line of the road or drain, or the line of the adjoining house, and may pay reasonable compensation to the owner of such house if any damage shall be thereby sustained.

Fallen house, &c., obstructing road or

207. Whenever any private house, wall or other erection, or any tree, shall fall down and obstruct any public drain or encumber any public highway,

[a] Ben. Acts III of 1864 and VI of 1868 were repealed by Ben. Act V of 1876, and the latter Act has been repealed by this Act—see Sch. VI, *infra*, p. 761.

[b] See General Acts, 1834–66, 2nd Ed., p. 60.

drain to be removed by owner.

the commissioners may remove such obstruction or encumbrance at the expense of the owner of the same, or may require him to remove the same within such time as to the commissioners shall seem fit.

Power to trim hedges and trees bordering on roads.

208. The commissioners may require the owner or occupier of any land within three days to train or prune the hedges bordering on any road, and to cut and trim any trees overhanging any road and obstructing the same or causing damage thereto.

Of General Conservancy and Improvement.

Wells, tanks, &c., to be secured.

209. If any well, tank or other excavation, whether on public or private ground, be, for want of sufficient repairs or protection, dangerous to passengers, the commissioners shall forthwith, if it appears to them to be necessary, cause a temporary hoard or fence to be put up for the protection of passengers, and may require the owners or occupiers, or the owners and occupiers, of the land on which such tank, well or such other excavation is situated, within seven days properly to secure or protect such well, tank or other excavation.

Houses, &c., in a ruinous or dangerous state.

210. If any house, wall, structure or anything affixed thereto be deemed by the commissioners to be in a ruinous state, or in any way dangerous, they shall forthwith, if it appears to them to be necessary, cause a proper hoard or fence to be put up for the protection of passengers, and may require the owners or occupiers, or the owners and occupiers, of the land to which such house, wall or structure is affixed, within seven days to cause such repairs to be made to such house, wall or structure as they may consider necessary for the public safety, or to remove such house, wall, structure or thing affixed thereto.

Power to enter upon possession of houses so repaired.

211. If the commissioners shall have caused any repairs to be made to any house or other structure, and if such house or other structure be unoccupied, the commissioners may enter upon possession of the same, and may retain possession thereof until the sum expended by them on the repairs be paid to them.

Sale of materials of houses, &c., pulled down.

212. The materials of anything which shall have been pulled down or removed under the provisions of section 210 may be sold by the commissioners, and the proceeds of such sale may be applied, so far as the same will extend, to the payment of the expenses incurred.

The surplus sale-proceeds (if any) shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the commissioners or in a Court of competent jurisdiction.

Stray dogs to be killed at certain appointed periods.

213. The commissioners may, by published order, appoint from time to time certain periods within which any dogs without collars or other marks distinguishing them as private property, found straying in the roads or beyond

the enclosures of the houses of the owners of such dogs, may be destroyed; and such dogs may be destroyed in accordance with such order.

214. The commissioners at a meeting may offer rewards for the destruction of noxious animals within the limits of a municipality.

Commissioners may offer reward for destruction of noxious animals.

215. The commissioners at a meeting may cause a name to be given to any road and to be affixed in such place as they may think fit, and may also cause a number to be affixed to every house; and in like manner may from time to time cause such names and numbers to be altered.

Names of roads and numbers of houses.

Penalties.

216. Any person who, in any municipality—

Offences under sections 189 and 215.

(1) places, or allows his servants to place, rubbish on a public road at other than the times appointed by the commissioners under the provisions of section 189, or

(2) destroys, pulls down, defaces or alters any name or number put up by the commissioners under the authority of section 215,

shall, for every such offence, be liable to a penalty not exceeding twenty rupees.

217. Any person who, in any municipality—

(1) being the occupier of a house in or near a public road, keeps, or allows to be kept, for more than twenty-four hours, or for more than such shorter time as may be prescribed by a bye-law, otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil or filth, or any noxious or offensive matter, in or upon such house, or in any out-house, yard or ground attached to and occupied with such house, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to cleanse the same, or

Occupier not removing filth, &c.

(2) keeps any public necessary without a license from the commissioners under section 194, or, having a license for a public necessary, suffers such necessary to be in a filthy or noxious state, or neglects to employ proper means for cleansing the same, or

Keeping unlicensed public necessary.

(3) being the owner or occupier of any private drain, privy or cess-pool, neglects or refuses, after warning from the commissioners, to keep the same in a proper state, or

Not keeping private drain, &c., in proper order.

(4) disobeys an order passed by the commissioners under the provisions of section 199, or

Disobeying order under section 199.

Erecting obstruction.

(5) encroaches upon any road, drain, sewer, aqueduct or watercourse by making any excavation, or by erecting any wall, fence, rail, post or other obstruction,

shall, for every such offence, be liable to a penalty not exceeding fifty rupees.

Disobeying requisition under sections 202, 204 or 208.

218. Whoever, being an owner or occupier of any house or land within a municipality, fails to comply with a requisition issued by the commissioners under the provisions of sections 202, 204 or 208, shall be liable, for every such default, to a penalty not exceeding fifty rupees, and to a further penalty, not exceeding ten rupees, for every day during which the default is continued after the expiration of eight days from the date of service on him of such requisition.

Disobeying requisition under sections 195, 200, 209 or 210.

219. Whoever, being an owner or occupier of any house or land within a municipality, fails to comply with any requisition issued by the commissioners under the provisions of sections 195, 200, 209 or 210 shall be liable, for every such default, to a penalty not exceeding one hundred rupees, and to a further penalty, not exceeding twenty rupees, for every day during which the default is continued after the expiration of eight days from the date of service on him of such requisition.

PART VI.

Of Special Regulations.

Operation of Parts VI, VII, VIII, IX or X.

220. No provision contained in this Part, or in Parts VII, VIII, IX or X, shall apply to any municipality, unless and until it has been expressly extended thereto by the Local Government in the manner provided by the next succeeding section.

Local Government may order the provisions of these Parts to be in force.

221. The commissioners may apply, in pursuance of a resolution passed at a meeting specially convened to consider the question, to the Local Government, to extend to the municipality all or any of the provisions of this Part, or of Parts VII, VIII, IX or X, or to exclude from the operation of the said provisions, or any of them, any place within the municipality.

And the Local Government may thereupon make an order accordingly.

Publication of order.

222. Every such order shall be published in the Calcutta Gazette, and the commissioners shall, within fifteen days of such publication, cause a copy of the same, with a translation thereof into the vernacular of the district, to be posted up at their office, with a notice of the date on which such order shall take effect, and shall cause the same to be published as prescribed in section 354.

And the said provisions shall come into force in the municipality from the date so fixed :

Provided that the date so fixed shall not be less than fifteen days after the publication under the said section, or more than three months after the publication of the order of the Local Government as aforesaid in the Calcutta Gazette.

223. The Local Government, on a similar application made by the commissioners, may at any time cancel or modify an order made under section 221, and such cancellation or modification shall be published and shall take effect in the manner prescribed by the last preceding section.

Local Government may cancel or modify order.

Of Privies, Drains and Excavations.

224. The commissioners may require the owners or occupiers, or the owners and occupiers, of any land, within fifteen days, to repair and make efficient any drain, privy or cess-pool, or to remove any privy or close any cess-pool which is situated on such land.

Commissioners may require owner or occupier to repair drain, &c.

225. Every person constructing a privy shall have such privy shut out by a sufficient roof and wall or fence from the view of persons passing by, or residing in, the neighbourhood: and the commissioners may require any owner or occupier of land on which a privy stands to cause the same to be shut out from view as aforesaid within fifteen days.

Privies must be properly enclosed.

226. If any person, without the written consent of the commissioners first obtained, makes or causes to be made, or alters or causes to be altered, any drain leading into any of the sewers or drains vested in the commissioners, the commissioners may cause such branch drain to be demolished, altered, re-made or otherwise dealt with as they shall think fit; and the expenses thereby incurred shall be paid by the person making or altering such branch drain.

Unauthorised drains leading into public sewers may be demolished.

227. If any land, being within one hundred feet of a sewer, drain or other outlet into which such land may, in the opinion of the commissioners, be drained, is not drained to the satisfaction of the commissioners, the commissioners may require the owner, within one month, to drain the said land into such sewer, drain or outlet.

Commissioners may require owner to drain land.

228. If it appear to the commissioners that a group or block of houses may be drained or improved more economically or advantageously in combination than separately, and a sewer, drain or other outlet already exists within one hundred feet of any part of such group or block of houses, the commissioners may cause such group or block of houses to be so drained and improved;

Group or block of houses, &c., may be drained by a combined operation.

and the expenses thereby incurred shall be recovered from the owners of such houses in such proportions as shall to the commissioners seem fit.

229. If any branch drain, privy or cess-pool be constructed contrary to the directions and regulations of the commissioners, or contrary to the provisions

Commissioners may alter any

drain, &c., made contrary to their orders.

of this Act, or if any person, without the consent of the commissioners, constructs, re-builds or unstops any branch drain, privy or cess-pool which has been ordered by them to be demolished or stopped up, or not to be made, the commissioners may cause such amendment or alteration to be made in any such drain, privy or cess-pool as they think fit, or may cause the same to be removed; and the expenses thereby incurred shall be paid by the person by whom such drain, privy or cess-pool was improperly constructed, re-built or unstopped.

No latrine to be constructed within fifty feet of a tank.

230. No person shall, without the written permission of the commissioners, construct or keep any latrine, urinal, cess-pool, house-drain or other receptacle for sewage or other offensive matter within fifty feet of any public tank or watercourse, or a tank or watercourse which the inhabitants of any locality use.

The commissioners may require any owner and occupier upon whose land any latrine, urinal, cess-pool, house-drain or other receptacle so situated exists, or may hereafter be constructed, to remove the same within eight days.

Construction of privy.

231. No person shall, without the written permission of the commissioners, construct a privy with a door or trap-door opening on to any road or drain. The commissioners may require any owner or occupier upon whose land any such privy exists to remove the same within eight days.

Power to prohibit excavations.

232. The commissioners at a meeting may, by a general order, prohibit the making of excavations for the purpose of taking earth or stone therefrom, or for the purpose of storing rubbish or offensive matter therein, and the digging of cess-pools, tanks or pits without special permission previously obtained from them.

If any such excavation, cess-pool, tank or pit is made after the issue and publication of such order without such special permission, the commissioners may require the owners and occupiers of the land on which such excavation, cess-pool, tank or pit is made, within two weeks, to fill up such excavation.

Of Obstructions and Encroachments on Roads.

Removal of existing projection from houses.

233. The Commissioners at a meeting may determine on the removal or alteration, as they shall think fit, of any projection, encroachment or obstruction which may have been erected or placed against, or in front of, any house on any road within the limits of the municipality before the date on which the District Municipal Act, 1864,[a] or the District Towns Act, 1868,[a] or the Bengal Municipal Act, 1876,[a] as the case may be, came into force in the muni-

Ben. III of 1864. Ben. VI of 1868. Ben. V of 1876.

[a] Ben. Acts III of 1864 and VI of 1868 were repealed by Ben. Act V of 1876, and the latter Act has been repealed by this Act—see Sch. VI, *infra*, p. 761.

cipality, or in case none of the said Acts was in force in the municipality before the commencement of this Act, then before the date on which this Act may have been extended thereto.

Notice in writing shall be given to the owner or occupier of such house requiring him to remove or alter the said projection, encroachment or obstruction, or to show cause before the commissioners why he should not be required so to do; and, if such owner or occupier shall fail to comply with such requisition within thirty days of the receipt of the same, or if after such owner or occupier shall have shown cause against being required to remove or alter the said projection, encroachment or obstruction, the Commissioners shall make an absolute order directing such removal or alteration; and, if such owner or occupier shall fail to comply with such order within fifteen days of the date of the same, the Magistrate may, on the application of the commissioners, order such projection, encroachment or obstruction to be removed or altered; and thereupon the commissioners may remove or alter such projection, encroachment or obstruction.

The commissioners shall make reasonable compensation to every person who suffers damage by any removal or alteration under this section.

In determining the amount of compensation the value of the land shall not be taken into consideration.

Leave to deposit materials on, or to excavate or close, a road.

234. The commissioners may grant permission to any person, for such period as they may think fit, to deposit any moveable property on any road, or to make an excavation in any road, or to enclose the whole or any part of any road, and may charge such fees as they may fix for such permission:

Provided that such person undertakes to make due provision for the passage of the public and to erect sufficient fences to protect the public from injury, danger or annoyance, and to light such fences from sunset to sunrise sufficiently for such purpose.

Hoards to be set up during repairs.

235. Every person intending to build or take down any house, or to alter or repair the outward part of any house, shall, if any public road will be obstructed or rendered inconvenient by means of such work, before beginning the same cause sufficient hoards or fences to be put up in order to separate the house where such works are being carried on from the road, and shall keep such hoard or fence standing and in good condition, to the satisfaction of the commissioners, during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night:

Provided that no person shall put up a hoard or fence without the written permission of the commissioners, nor shall he keep up the said hoard or fence for a time longer than allowed in the said written permission.

Of Building Regulations.

Roofs and external walls not to be made of inflammable materials.

236. The commissioners at a meeting may direct that within certain limits, to be fixed by them, the external roofs and walls of huts or other buildings which may thereafter be erected, or the roof or walls of which may thereafter be renewed or repaired, shall not be made of grass, leaves, mats or other inflammable materials.

Notice to be given to commissioners by persons intending to build or rebuild any house not being a hut.

237. Before beginning to build or rebuild any house not being a hut, the person intending to build or rebuild any such house shall give notice thereof in writing to the commissioners, and shall accompany such notice with a general description of the building which he intends to erect, and of the provision he intends to make in respect of drainage and latrine accommodation.

Commissioners may refuse sanction to the building of a house not to be provided with drainage and latrine accommodation.

238. Within fourteen days after the receipt of the notice mentioned in the last preceding section, the commissioners may refuse to sanction the building of the house, unless it be shown to their satisfaction that proper provision is, or can be made, for drainage and latrine accommodation within the holding or in the neighbourhood thereof.

Commissioners may call for a plan of the width of foundation walls and the level of the lowest floor.

239. The commissioners may also, if they see fit, within fourteen days after the receipt of the notice mentioned in section 237, require the person giving such notice to submit to them a plan showing the width of the foundation walls and the level of the lowest floor of such house by reference to some level ascertained under the direction of the commissioners, and the commissioners may direct that such house shall not be begun to be built without their sanction.

On failure of commissioners to signify approval or disapproval of the plan within fourteen days, the house may be built in the manner laid out in the plan.

240. Within fourteen days after receiving the plan mentioned in the last preceding section, the commissioners shall either signify their approval of the proposed levels and width of the foundation walls, or shall fix other levels and width of foundation walls in lieu thereof. If within fourteen days after receiving the plan as aforesaid the commissioners fail to signify their approval or disapproval of the levels and width of foundation walls shown in such plan, or to fix other levels and width of foundation walls, the person giving notice may, unless sanction has been refused under section 238, proceed to build or rebuild the house in accordance with the levels and width of foundation walls shown in the plan:

Provided that the house be otherwise built or rebuilt in accordance with the provisions of this Act.

Commissioners may cause house built

241. If any house is built, or begun to be built, without notice as required by section 237;

or if such house is built, or begun to be built, after refusal of and without sanction under section 238;

or if, when a plan has been required under section 239, the house is built or begun to be built before such plan has been approved, or before the expiration of fourteen days after the submission of such plan;

or if, after the commissioners have directed that the house be not begun to be built without their sanction, the said house is built or begun to be built without such sanction;

or if, when levels and width of foundation walls have been fixed by the commissioners, the house is built or begun to be built in accordance with levels and foundation walls other than those fixed;

or if the house is built, or begun to be built, in any other respect contrary to the provisions of this Act,

the commissioners may cause such house to be altered or demolished as they shall see fit.

without notice, &c., or contrary to provisions of Act, to be altered or demolished as they shall see fit.

242. The commissioners may prohibit the owner of any new house to let the same for occupation, until the drainage and latrine accommodation of such house shall have been inspected and approved by the municipal officers appointed for the purpose.

New house to be approved before occupation.

243. It shall not be lawful for any person to erect a hut, or any range or block of huts or sheds, or to add any hut or shed to any range or block already existing, or to enlarge any existing hut, without previous notice to the commissioners; and the commissioners may require such huts or sheds to be built so that they may stand in regular lines, with a free passage or way in front of and between each line, of such width as they may think proper for ventilation and to facilitate scavengering, and with such number of privies, and with such means of drainage, as to them may seem necessary, and at such a level as will admit of such drainage, and with a plinth at least two feet above the level of the nearest street.

Erection of new huts to be under the control of the commissioners.

244. If any such huts or sheds be built without giving such notice to the commissioners, or otherwise than as required by the commissioners, the commissioners may require the owners of the land on which such huts and sheds are built, and the occupiers of such huts and sheds, to take down and remove the same within one month, or to effect such alterations as they may deem necessary.

Power to direct removal of huts built without notice.

Of Sanitary Measures with regard to Blocks of Huts.

245. Whenever the commissioners at a meeting are satisfied, from inspection, or by report of competent persons, that any existing block of huts within

Power of commission-

ers as to inspection of huts.

the municipality is, by reason of the manner in which the huts are constructed or crowded together, or of the want of drainage and the impracticability of scavengering, attended with risk of disease to the inhabitants or the neighbourhood, they may cause the locality to be inspected by two medical officers, who shall make a report in writing on the sanitary condition of the said block of huts; and shall specify, if necessary, in the said report, the huts which should be removed, the roads, drains and sewers which should be constructed, and the low lands which should be filled up, with a view to the removal of the said risk of disease.

On receipt of report, commissioners may cause notice to be served.

246. On receipt of the said report, the commissioners at a meeting may require the owners or occupiers of the huts, or at the option of the commissioners the owner of the land on which such huts are built, to carry out and execute within a reasonable time, to be fixed by the commissioners for such purpose, all or any of the works specified in the aforesaid report or any portion thereof respectively, and, if such owner, owners or occupiers shall fail to comply with such requisition, the commissioners themselves may execute all or any of such works.

Expenses may be recovered by instalments or remitted in case of poverty.

247. The commissioners at a meeting may order that any expenses payable in respect of any work done by them in consequence of the failure of the owners or occupiers to execute such work when required to do so under the last preceding section shall be recovered by instalments from the person liable to pay the same; or, if it should appear to them that the said person is unable by reason of poverty to pay the same, may order the same, or any portion thereof, to be paid out of the municipal fund.

Sale of huts.

248. If any of the said huts be pulled down, the commissioners shall cause the materials of each hut to be sold separately, if such sale can be effected, and the proceeds shall be paid to the owner of the hut, or, if the owner be unknown, or the title disputed, shall be held in deposit by the commissioners, until the person interested therein shall obtain the order of a Civil Court of competent jurisdiction for the payment of the same.

Of the Regulation of the Sale of Food, Drink and Drugs.

Markets, slaughter-houses, &c., to be properly drained.

249. Every owner, or occupier, or farmer, of any place for the sale of meat, poultry, fish or vegetables, or of any slaughter-house, within the limits of a municipality, shall cause such drains to made therein as shall be considered sufficient by the commissioners, and (if required so to do by the Commissioners) shall cause all the floors and drains to be paved with stone or burnt brick, and shall also cause a supply of water to be provided, sufficient for keeping such place or slaughter-house in a clean and wholesome state.

250. Any Magistrate, on the application of the commissioners or any of their officers setting forth that there is just cause to believe that any article which has been rendered or has become noxious or unfit for use as food or drink for man, is in the possession of any person for the purpose of being sold or offered or exposed for sale, within the limits of a municipality as food or drink for man, may grant a warrant to enter upon the premises of such person, and to search for and seize such article.

Sale of unwholesome food or drink.

And, if it appear to the said Magistrate that the same is noxious or unfit for such use, he shall order it to be forfeited and disposed of in such way as to him shall seem proper.

251.[a] No person shall sell to the prejudice of the purchaser any article of food which is not of the nature, substance or quality of the article demanded by such purchaser under a penalty not exceeding one hundred rupees:

Prohibition of the sale of articles of food not of the proper nature, substance or quality.

Provided that an offence shall not be deemed to be committed under this section in the following cases, that is to say:—

(1) where any matter or ingredient not injurious to health has been added to the food, because the same is required for the production or preparation thereof as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure of the food, or conceal the inferior quality thereof;

(2) where the food is unavoidably mixed with some extraneous matter in the process of collection or preparation.

The term "food" shall include every article used for food or drink by man other than drugs or water.

In any prosecution under this section it shall be no defence to allege that the purchaser, having bought only for analysis, was not prejudiced by the sale.

251A.[b] No proceedings shall be instituted under the last preceding section without the order or consent of the commissioners.

No proceedings to be had without leave of the commissioners.

251B.[b] The commissioners, or any person authorized by them in that behalf, may, at all reasonable times, enter into and inspect any market, building, shop, stall or place used for the sale or storage of articles intended for

Power of commissioners to enter and inspect markets, shops, &c., and to

[a] This section has been substituted for the original s. 251 by Ben. Act III of 1886, s. 2—see Ben. Act III of 1886, s. 2, *infra*.

[b] Ss. 251A and 251B have been inserted by Ben. Act III of 1886, s. 3—see Ben. Act III of 1886, s. 3.

seize unwholesome articles exposed for sale.

food, or as a slaughter-house, and may examine any such articles which may be therein, and, if upon examination such articles, or any of them, appear to be unfit for food, may seize the same.

Power to destroy unwholesome articles.

251C.[a] Upon the seizure of any article of food under the last preceding section, the same may, if the owner or the person in whose possession the same is found consents, be forthwith destroyed or so disposed of as to prevent it being used as food; but, if the owner or the person in whose possession the same is found do not consent, then, if it appear to a Magistrate upon sufficient evidence that the same is unfit for food, he shall order the same to be destroyed or so disposed of as to prevent it being used as food, and may impose a penalty not exceeding one hundred rupees upon the owner or person in whose possession the same was found, such person not being merely a carrier or bailee thereof.

Person refusing to sell any article to commissioners liable to penalty.

251D.[a] If the commissioners, or any person authorized by them in that behalf, shall apply to purchase any article of food exposed to sale, and shall tender the price for a quantity not more than shall be reasonably requisite for the purpose of analysis, and the person exposing the same for sale shall refuse to sell the same, such person shall be liable to a penalty not exceeding fifty rupees.

Registry of shops for sale of European drugs.

252. No shop or place shall be kept for the retail sale of drugs recognized by the British Pharmacopœia, not being also articles of ordinary domestic consumption, unless the same shall have been registered in the office of the commissioners. Any keeper of such shop or place failing to register the same within two months after this section shall come into force, or within two months from the date of the establishment of such place, shall be liable to a fine not exceeding one hundred rupees. The commissioners shall, upon registration, grant the keeper of such shop or place a license which he shall be bound to display in some conspicuous part of his premises.

Certificated dispensers.

No person shall compound, mix, prepare, dispense or sell any drug in any such registered shop or place unless he be duly certified as a fit person to be entrusted with such duties under rules made for that purpose by the Local Government:

Provided that the provisions contained in the second clause of this section shall not come into operation until after the expiration of a period of six months from the publication of a notification to that effect in the Calcutta Gazette by the Local Government.

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[a] Secs. 251C and 251D have been inserted by Ben. Act III of 1886, s. 3—see Ben. Act III of 1886, s. 3, *infra*.

Nothing in this section contained shall be construed to apply to the sale of drugs used by practitioners of indigenous medicines, whether recognized by the British Pharmacopœia or not, when such drugs are not sold in a shop or place where medicines recognized by such Pharmacopœia are dispensed upon prescription.

Inspection of drugs.

253. The commissioners, or any person authorized by them in that behalf, may at all reasonable times enter into and inspect any place kept for the sale of drugs, or in which drugs are sold, and if they have reason to suspect that any drug in the said place is adulterated or by reason of age or the effect of climate has become inert or unwholesome, or has otherwise become deteriorated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, may remove the same on giving a receipt therefor, specifying the nature and quantity of the drug removed, and its approximate value; and if it appear to a Magistrate that the said drug removed as aforesaid is adulterated or has become inert, unwholesome or deteriorated as aforesaid, he may order the same to be destroyed, or to be so disposed of as to him may seem fit.

Compensation if drug be not adulterated.

If it shall appear to the said Magistrate that the drug so removed is not adulterated or has not become inert, unwholesome or deteriorated as aforesaid, the person from whose shop or place it has been taken shall be entitled to have it restored to him, and it shall be in the discretion of the said Magistrate to award him such compensation as he may think proper, not exceeding the actual loss which has been sustained.

If the drug removed as aforesaid is not brought before a Magistrate, it shall be restored to the person from whose shop or place it was taken, and such person shall be entitled to compensation for any actual loss which he may have sustained by the removal of the said drug.

Of Burial and Burning Grounds.

Registration of existing burial and burning grounds.

254. Within three months from the date on which this and the six next succeeding sections may come into force as provided in section 222 every place which is used as a burial or burning-ground for corpses shall be registered as such by the owner thereof in the office of the commissioners, but no fee shall be charged for such registry.

No new or disused burial or burning place henceforth to be used without leave of Government or of commissioners.

255. No burial or burning ground, whether public or private, shall be made or formed, or, having lapsed into disuse, shall be again used as such, otherwise than with the permission of the commissioners, or under the authority of the Local Government.

Commissioners may order certain burial or burning grounds to be closed.

256. If it shall appear to the commissioners at a meeting that any public or private burial or burning ground is dangerous to health or offensive to the tax-payers, or to the inhabitants of the neighbourhood, and also that a suitable place for interment or burning, as the case may be, exists within a convenient distance, and is open and available to the inhabitants of the municipality, the commissioners shall give public notice of their intention to close such burial or burning ground, and shall consider any objections which may be preferred within fifteen days of the publication of such notice; after considering such objections, they may, by notification to be affixed on some conspicuous part of the ground, appoint a time, not being less than two months, for the closing of such burial or burning-ground.

If any building is attached to, and used in connection with, a burning-ground closed under this section, the commissioners shall, if the owner of such building make an application to them in that behalf, take over the same on payment of a fair price therefor.

Prohibition to bury or burn in unregistered ground.

257. After the expiration of the three months mentioned in section 254, no corpse shall be buried or burnt otherwise than in a place which is borne on the register of the commissioners as an open burial or burning ground; but the commissioners may grant special permission for a corpse to be buried or burnt elsewhere.

Commissioners may cause corpses to be burnt or buried according to the religious tenets of the deceased.

258. After the expiration of not less than twenty-four hours from the death of any person, the commissioners may cause the corpse of such person to be burnt or buried, and the expenses thereby incurred shall be recoverable as a debt due from the estate of such person. In every such case the corpse shall be disposed of, so far as may be possible, in a manner consistent with the religious tenets of the deceased.

Commissioners may provide places to be used as burial or burning grounds.

259. The commissioners at a meeting may, from time to time, out of the municipal fund, with the sanction of the Local Government, provide fitting places to be used as burial or burning grounds, and may impose a fee not exceeding two rupees in respect of every corpse buried or burnt within such burial or burning grounds.

Commissioners may provide for burial of paupers free of charge.

260. The commissioners at a meeting may, from time to time, out of the municipal fund, provide for the burial and burning of paupers free of charge within the limits of the municipality.

Of certain Offensive and Dangerous Trades or Occupations.

Certain offensive and dangerous

261. Within such local limits as may be fixed by the commissioners at a meeting, no place shall be used without a license from the commissioners,

which shall be renewable annually, for any of the following purposes, namely :—

trades not to be established within limits to be fixed by the commissioners without license.

melting tallow ;

boiling offal or blood ;

skinning or disembowelling animals ;

as a soap-house, oil-boiling house, dyeing-house ;

as a tannery, slaughter-house, or kiln for making bricks, pottery, tiles or lime ;

as a manufactory or place of business from which offensive or unwholesome smells may arise ;

as a yard or depôt for trade in hay, straw, wood, thatching-grass, jute or other dangerously inflammable material ;

as a store-house for kerosine, petroleum, naphtha or any inflammable oil or spirit ;

as a shop for the sale of meat ; or

as a lodging-house or a serai.

Such license shall not be withheld unless the commissioners have reason to believe that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in or frequenting the immediate neighbourhood.

The commissioners may levy a fee in respect of such license and the renewal thereof, and may impose such conditions upon the license as they may think necessary.

Commissioners may, in certain cases, order the use of slaughter-houses and the carrying on of dangerous and offensive trades to be discontinued.

262. If it be shown to the satisfaction of the commissioners at a meeting that any place licensed under section 261 is a nuisance to the neighbourhood, they may, notwithstanding anything contained in the said section, give notice to the occupier to discontinue the use of such place within one month after the date of such notice.

Milkman, &c. not to keep animals or cattle without license.

263. Within such limits as the commissioners at a meeting may determine, no milkman, cartman, livery stable-keeper or keeper of hackney carriages shall keep horses, ponies or cattle, exceeding ten in number, for the purpose of trade or business, except in a place licensed by the commissioners.

The commissioners may license places for such purpose, and may levy a fee not exceeding one rupee on the issue and renewal of any such license. Such license shall be renewed in the first and seventh months of each year.

It shall be in the discretion of the commissioners at a meeting to grant any such license subject to such conditions as they may think fit.

Commissioners may provide public stables.

264. The commissioners may provide public stables for the accommodation of horses and cattle, and may direct that, within such limits as they shall at a meeting determine, no person shall keep horses or cattle exceeding ten in number, for the purpose of trade or business, except in such public stables, or in places licensed under the preceding section.

The commissioners may charge such reasonable fees as they shall think fit for the use of such public stables.

Conditions for keeping pig-sty.

265. Within such limits as the commissioners may direct, no person shall keep any pig-sty adjoining or near a road unless it is shut out therefrom by a sufficient wall or fence, and in no place within such limits shall more than ten pigs or more than twenty sheep or goats be kept without the written permission of the commissioners.

The commissioners may charge an annual fee not exceeding two rupees for such permission, and may impose such conditions in respect of such permission as they may think necessary.

Penalties.

Failing to shut out privy from view.

266. Any person constructing a privy within a municipality, and failing to have it shut out from view, as in section 225 required, shall be liable to a fine not exceeding twenty rupees.

Erecting huts without notice.

267. Whoever erects a hut, or any range or block of huts or sheds, or adds to any hut or shed, or to any range or block already existing, contrary to the provisions of section 243, and whoever fails to remove such hut, block of huts or shed when required by the commissioners to do so, shall be liable to a fine not exceeding twenty rupees for every such offence, and to a further fine, not exceeding five rupees, for each day during which the offence is continued after he has been convicted of such offence.

Disobeying requisition under section 249.

268. If any owner, occupier or farmer of any place for the sale of meat, poultry, fish or vegetables, or of any slaughter-house, within the limits of a municipality, after notice in writing given to him by the commissioners that such place or slaughter-house is defective in any of the particulars specified in section 249, and requiring him to remedy the defect specified within not less than thirty days, makes default therein, he shall be liable to a fine not exceeding twenty rupees for every day during which such default is continued after the expiration of the period mentioned in such notice.

Cutting up road for passage of water.

269. If any person, in order to provide for the passage of water, or for any other purpose, shall, without the consent of the commissioners, dig or cut

up any public road or thoroughfare, he shall be liable to a fine not exceeding twenty-five rupees, and shall in addition be bound to pay the expenses incurred in filling up any excavation made by him or on his behalf in any such public road or thoroughfare.

270. Whoever, within a municipality,—

(1) without the permission of the commissioners, throws or puts, or permits his servants to throw or put, any sewage or offensive matter on to any road, or who throws or puts, or permits his servants to throw or put, any earth, rubbish, sewage or offensive matter into any sewer or drain belonging to the commissioners, or into any drain communicating therewith; or

Throwing rubbish into sewers.

(2) causes or allows the water of any sink, sewer or cess-pool, or any other offensive matter belonging to him or being on his land, to run, drain or be thrown or put upon any road, or causes or allows any offensive matter to run, drain or be thrown into a surface-drain near any road; or

Allowing water of any sewer, &c., to run on any road.

(3) constructs a latrine, urinal, cess-pool, house-drain or privy in contravention of the provisions of sections 230 or 231; or

Constructing latrine, &c., in contravention of sections 230 and 231.

(4) without the written permission of the commissioners, digs or makes or causes or suffers to be dug or made, any excavation, cess-pool, tank or pit, in contravention of the provisions of section 232,

Making excavations.

shall be liable, for every such offence, to a fine not exceeding twenty-five rupees.

271. Whoever, within a municipality, fails to comply with a requisition issued by the commissioners under the provisions of sections 225, 230 or 231 shall be liable, for every such offence, to a fine not exceeding twenty-five rupees, and to a further fine, not exceeding five rupees, for every day during which he shall continue to make such default after service on him of such requisition.

Disobeying requisition under sections 225, 230 and 231.

272. Whoever, within a municipality,—

(1) without the written consent of the commissioners previously obtained, makes or causes to be made, or alters or causes to be altered, any drain leading into any of the sewers or drains vested in the commissioners by this Act; or

Altering, &c., drains leading to public sewers.

(2) constructs any branch drain, privy or cess-pool contrary to the directions and regulations of the commissioners or contrary to the provisions of this Act, or, without the consent of the commissioners,

Making drains contrary to the orders of the

commissioners.

constructs, rebuilds or unstops any drain, privy or cess-pool which has been ordered by them to be demolished or stopped up or not to be made;

shall be liable, for every such offence, to a fine not exceeding fifty rupees.

Offence under sections 235, 241, 242.

273. Whoever, in a municipality,—

(1) begins to build or to take down, or alter or repair, any house contrary to the provisions of sections 235 or 241, or lets a house for occupation contrary to the provisions of section 242, or, without written permission, erects or sets up any hoard, scaffolding or fence whatsoever, or who, being permitted, fails to put up such fence or hoard, or to continue the same standing, or to maintain the same in good condition, or who does not, while such hoard or fence is standing, keep the same sufficiently lighted during the night, or who does not remove the same within eight days, when directed by the commissioners; or

Offence under sections 261 or 263.

(2) without a license uses any place for any of the purposes specified in section 261 or section 263; or

Offence under sections 261 or 263.

(3) being a holder of a license under section 261 or section 263, breaks any condition of such license; or

Offence under section 264.

(4) after the issue of an order under section 264, keeps horses or cattle exceeding ten in number in contravention of such order; or

Offence under section 265.

(5) keeps any pig-sty, pigs, sheep or goats contrary to the provisions of section 265,

shall be liable, for every such offence, to a fine not exceeding fifty rupees, and to a further fine, not exceeding ten rupees, for every day during which the offence is continued after he has been convicted of such offence.

Burying or burning corpse in unregistered grounds.

274. Whoever, within a municipality, after the expiration of the period mentioned in section 257, knowingly buries or burns, or causes, procures or suffers to be buried or burned, any corpse in or on any ground not registered as a burial or burning ground, shall be liable to a fine not exceeding one hundred rupees.

Offence under section 252.

275. Whoever, within a municipality, uses any such place as is mentioned in section 252, without the same being registered shall be liable to a fine not exceeding one hundred rupees, and to a further fine not exceeding twenty rupees for each day during which the offence is continued after he has been convicted of such offence.

Uncertificated person dispensing drugs.

276 Whoever, within a municipality, not being the holder of such certificate as is mentioned in the second clause of section 252, shall compound, mix, prepare or sell any drugs in any registered shop or place, shall, on conviction

before a Magistrate, be liable to a fine not exceeding fifty rupees for each offence; and any owner, occupier or keeper of any such shop or place, who shall employ any such uncertified person to perform any one or more of such duties, shall, on conviction before a Magistrate, be liable to a fine not exceeding two hundred rupees, and shall be further liable, at the discretion of such Magistrate, to forfeit his license:

Provided that this section shall not come into operation until after the expiration of a period of six months from the publication of a notification to that effect in the Calcutta Gazette by the Local Government.

Disobeying notice under section 262.

277. Whoever, within a municipality, after the expiration of the time specified in a notice issued by the commissioners under the provisions of section 262, uses, or permits to be used, the place specified in such notice in such a manner as to be a nuisance to the neighbourhood, shall be liable to a fine not exceeding two hundred rupees, and to a further fine not exceeding forty rupees for each day during which the offence is continued after he has been convicted of such offence.

Suspension or revocation of license, &c.

278. Any Magistrate before whom any person is convicted of an offence contrary to the provisions of this Act relating to the use of any place for a purpose for which a license is required, or of the non-observance of any of the bye-laws relating thereto made under this Act, in addition to the fine which may be imposed on such person under this Act, may suspend, for any period not exceeding two months, any such license.

And the commissioners, upon the conviction of any person for a second or other subsequent like offence, may cancel his license.

PART VII.

Of a Water-supply.

Imposition of water-rate.

279. In any municipality to which the provisions of this Part shall be extended in the manner prescribed by section 222 it shall be lawful for the commissioners to impose an annual water-rate not exceeding six per cent. on the annual value of holdings, when the houses and lands are situated in streets supplied with water, and not exceeding five per cent. when the houses and lands are situated in streets not so supplied.

The said water-rate shall be paid by the occupiers of the holdings by quarterly instalments in advance.

Valuation, assessment

280. The annual value of holdings shall be the value determined by the commissioners for the imposition of the rate on holdings under the provisions

and collection of water-rate.

of Part IV of this Act, or, if no such rate on holdings be imposed, the annual value shall be ascertained and determined in the manner provided in that Part. And the provisions of sections 96 to 109 (both inclusive), and 112 to 130 (both inclusive), shall, *mutatis mutandis*, and so far as they are not inconsistent with the provisions of this Part, be applicable to the assessment and collection of the water-rate.

Occupier paying water-rate may deduct one-fourth from rent due to owner.

281. Whenever the person by whom the water-rate shall have been paid, or from whom the said rate shall have been recovered, is not the owner of the house or land in respect of which the water-rate shall have been assessed, such person may recover from the owner one-fourth of the water-rate so paid or recovered, and may deduct the same from the rent payable by him to such owner.

When house is unoccupied, owner to pay one-fourth of water-rate.

282. Whenever any house or land has been unoccupied during an entire quarter, the owner of the said house or land shall pay to the commissioner one-fourth of the sum which would have been payable as water-rate by the occupier if such house or land had been occupied.

The sum payable by the owner under this section shall be deemed to be due on the first day of the quarter following that in respect of which the said sum is payable.

Refund of water-rate when house ceases to be occupied.

283. Whenever any quarterly instalment of the water-rate shall have been paid in respect of any house or land, and such house or land shall, during the quarter for which such instalment shall have been paid, cease to be occupied, the person who shall have paid such water-rate shall be entitled to be repaid by the commissioners three-fourths of such sum as shall bear to the amount paid by him the same proportion which the residue of the quarter bears to the entire quarter:

Provided that notice shall have been given in writing to the commissioners of such house or land being unoccupied, and that the application for refund be made within six months next after the date on which the house or land ceased to be occupied.

The date on which the said notice is delivered at the office of the commissioners shall, for the purposes of this section, be deemed to be the date on which the house or land ceased to be occupied.

Rate payable on house being re-occupied.

284. Whenever any house or land which shall have been unoccupied shall begin to be occupied during any quarter, there shall be forthwith payable by the occupier in respect of such house or land a sum calculated at one-fourth of the rate that would have been payable if the house or land had been occupied during the entire quarter for the period during which the house or land was not occupied, and the full rate for the residue of the quarter.

And such occupier shall be entitled to deduct from the rent, or otherwise recover from the owner, one-fourth of the water-rate that would have been payable if the house or land had been occupied during the entire quarter.

285. Whenever any person holding any house or land from the owner thereof has sub-let the same in severalty to two or more persons, the person holding from the owner shall, for the purposes of this Part, be deemed to be the occupier of such house or land.

Person sub-letting to several different tenants to be deemed occupier.

286. The provisions of sections 312, 313 and 314 shall be applicable to this Part:

Owner to pay water-rate in certain other cases.

Provided that the owner shall not be entitled to recover from any occupying tenant more than three-fourths of the water-rate that would but for this proviso be recoverable by him under the said sections.

287. In any municipality to which the provisions of this Part shall be extended the commissioners shall provide a supply of water within the limits of the municipality; and for this purpose it shall be lawful for them to cause such mains and pipes to be laid, and such tanks, reservoirs or other works to be made and constructed, as shall be necessary for the supply of water in the chief public streets; and they may also erect in all such streets sufficient and convenient stand-pipes or pumps for the use of the inhabitants of the municipality for domestic purposes.

The commissioners to provide water-supply.

288. A supply of water for domestic purposes shall not include a supply of water for animals or for washing carriages, where such animals or carriages are kept for sale or hire, or a supply for any trade, manufacture or business, or for watering gardens or roads, or for any ornamental or mechanical purpose.

What are domestic purposes.

289. The commissioners at a meeting shall determine what pressure of water shall be maintained in their service pipes and mains, and during what hours such pressure shall be continued: and any rule made under this section shall be published in such manner as the commissioners may direct, and shall not be altered except with the sanction of the commissioners at a meeting.

Pressure at which water must be kept.

290. If the commissioners at a meeting shall determine to supply water to houses within the municipality, every person paying the water-rate hereinbefore mentioned shall be entitled to lay down communication-pipes from the service pipes of the commissioners for bringing into his house or land a reasonable supply of water for domestic use:

Communication-pipes, &c., to be made of required dimensions, and at expense of householder.

Provided that the commissioners shall be at liberty to cut off the supply of water to any house or land during the time the said house or land is unoccupied.

Such communication-pipes and the pipes and works within the house connected therewith shall be of such character, dimensions and materials as the

commissioners shall fix and approve, and shall be made and constructed at the expense of the person requiring the same.

Communication-pipes, &c, must be made to satisfaction of officers of the commissioners.

291. The communication-pipes and all fittings thereon leading water from the service pipes of the commissioners into any house or land, and the pipes, works and fittings inside the house or land, must in all cases be executed subject to the inspection and satisfaction of the commissioners.

Such communication-pipes, works and fittings may be made by the servants and workmen of the commissioners upon such terms as may be agreed upon between the commissioners and the person requiring the supply, or subject to such charges as may be fixed by the commissioners; and the commissioners may require the amount necessary for the execution of such works to be paid or deposited before such works are executed.

And such charges and expenses shall be recoverable in the same manner as the water-rate.

Power to enter premises.

292. Any officer authorized in that behalf by the commissioners may between the hours of seven in the forenoon and five in the afternoon, enter into or on any house or land supplied with water as aforesaid in order to examine all pipes, works and fittings connected with the supply of water, and to ascertain whether there be any waste or misuse of such water.

And, if such officer at any such time be refused admittance into such house or land for the purposes aforesaid, or be prevented from making such examination, the commissioners may forthwith cut off the supply of water from such house or land:

Provided that nothing hereinbefore contained shall authorize an entry into any room appropriated for the zanana or residence of women which, by the custom of the country, is considered private, unless a notice in writing of not less than four hours be given.

When pipes are out of repair, commissioners may turn off water.

293. In the event of any pipes, works or fittings connected with the supply of water to any house or land being at any time found, on examination by any officer of the commissioners authorized in that behalf, to be out of repair to such an extent as to cause waste of water, the commissioners may cause the water to be turned off from such house or land, after giving notice in writing of not less than twenty-four hours, and may recover from the occupier of such house or land the expense incurred for turning off the water.

Supply of business.

294. The commissioners may supply water through a meter for purposes other than domestic purposes, and may, subject to such charges and rates as may have been fixed by the commissioners at a meeting, lay down, or allow to be laid down, the necessary pipes and works of such dimensions and character as may be approved by them.

295. The commissioners at a meeting may determine what quantity of water shall be supplied to the occupier of every house, free of further charge, for every rupee paid to the commissioners as water-rate on account of such house.

Householder entitled to certain supply of water for domestic use.

If the commissioners have reason to believe that the occupier of any house consumes more water than he is entitled to as aforesaid, it shall be lawful for them to provide a water meter at their own expense, and to attach the same to the water-pipes of the said house: and any water which may be used over and above the quantity to which the occupier is entitled as aforesaid shall be paid for by him at such rate as the commissioners at a meeting may determine.

296. It shall be at the option of the commissioners to provide filtered or unfiltered water for all latrines and water-closets, and it shall be lawful for them to require that all latrines and water-closets supplied with water, filtered or unfiltered, shall be provided with a cistern of such size and description as the commissioners shall direct, and all such cisterns shall be put up at the cost of the owner of the house or land so supplied with water.

Commissioners may provide filtered or unfiltered water for latrines.

297. If any person supplied with water shall neglect to pay the water-rate hereinbefore mentioned at the times of payment thereof, or the charge made for the said water when supplied for other than domestic purposes, the commissioners may turn off the water from the house or land in respect of which such rate or charge is payable, and may recover the expense of turning off the water from such person:

Water may be cut off on neglect to pay the rate.

Provided that the stopping or cutting off the supply of water shall not relieve any person from any penalties or liabilities which he may have incurred.

298. The occupier of any house or land in which water supplied by the commissioners under this Part is, from negligence or other circumstances under the control of the said occupier, wasted, or in whose house or land the pipes, works or fittings for the supply of water shall be found to be out of repair to such an extent as to cause waste of water, shall be liable to a fine not exceeding twenty rupees.

Occupier whose house water is wasted liable to penalty.

299. Any person otherwise causing waste of water supplied by the commissioners shall be liable to a fine not exceeding five rupees.

Person causing waste of water liable to penalty.

300. It shall be within the discretion of the commissioners to allow any person not residing within the limits of the municipality to take or be supplied with water for domestic use, on such terms as the commissioners in meeting may from time to time prescribe.

Commissioners at their discretion may allow person outside the town to take water.

Penalty.

And any person taking or causing to be taken for use, outside the limits of the municipality, water supplied by the commissioners, without the permission of the commissioners, shall be liable to a fine not exceeding fifty rupees.

Before connection an officer of the commissioners to cause all works and pipes to be inspected.

301. Before a connection for the supply of water from the service pipes of the commissioners to any house or land is sanctioned, the commissioners may cause all the works, pipes and fittings within the said house or land to be inspected by an officer appointed by them in that behalf.

And the cost of such inspection shall be payable in advance by the person applying for such connection at such rates as the commissioners in meeting shall from time to time direct.

And, until such officer shall have certified to the commissioners that the works, pipes and fittings have been executed and put up in a satisfactory manner, a connection with the commissioners' service pipes shall not be permitted.

Connection with service pipes to be executed only by an officer of the commissioners.

302. The connection with the service pipes of the commissioners, as also the laying of supply pipes under any public road or thoroughfare, shall be executed by an officer of the commissioners authorized in that behalf and by no other person.

And the expense of making such connection shall be payable in advance by the person applying for the same, at such rates as the commissioners in meeting shall from time to time direct.

Obstructing or diverting water.

303. Any person who shall unlawfully flush, draw-off, divert or take water from any water-works belonging to, or under the control of, the commissioners, or from any water or streams by which such water-works are supplied, shall be liable to a fine not exceeding one hundred rupees.

Estimate and specification of works to be sent.

304. No works for introducing a supply of water to any house shall be commenced by the owner without sending a specification and estimate of the cost thereof to the occupier, nor by the occupier without sending such specification and estimate to the owner.

Owner to keep works in repair.

305. Except in the case of a special agreement to the contrary, the owner of any house or land shall bear the expense of keeping all works connected with the supply of water to such house or land in substantial repair:

Provided that nothing in this section shall affect the liabilities of parties under leases executed previous to the extension of this Part to the municipality in which the said house or land is situated.

Tanks, &c., vested in the

306. All public tanks, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes, pumps and other water-works, whether made, laid or erected at the

cost of the commissioners or otherwise, and all bridges, buildings, engines, works, materials and things connected therewith, or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank shall become vested in the commissioners. commissioners.

307. The water-rate and all moneys collected, received or recovered for or in respect of the supply of water or the execution of works, and all fines connected therewith, or in any respect relating to the water-supply, shall be applied by the commissioners in defraying the expense of making, extending or maintaining the water-works, in paying the interest of money borrowed for the water-works, and in the liquidation of debts incurred in connection therewith or for some other purpose connected with the supply of water. Application of rates and moneys received from the supply of water.

PART VIII.

Of Lighting with Gas.

308. In any municipality in which this Part shall have been introduced in the manner provided in section 222 it shall be lawful for the commissioners from time to time to submit to the Local Government, for its sanction, a plan for lighting with gas any portion of any area situate within the municipal limits, whether so lighted already or not, such portion of the said area having been previously defined by the commissioners at a meeting held for that purpose. The Local Government shall cause the plan to be published for one month in the Calcutta Gazette, and the commissioners shall publish it in the vernacular within the limits of the municipality; and after such publication, and after consideration of any objections which may be raised to it or alterations suggested in it, the Local Government may, if satisfied that the lighting proposed in the plan is proper and sufficient, sanction such plan, or may refuse its sanction thereto, or may return it to the commissioners for alteration in certain particulars to be specified by it, and when altered may sanction it as altered. The Local Government shall cause its sanction to any plan to be notified in the Calcutta Gazette, and shall at the same time cause the plan sanctioned to be published in the said Gazette. Municipal commissioners may submit to the Local Government a plan for lighting.

309. After notification by the Local Government in the last preceding section mentioned, it shall be lawful for the commissioners to impose an annual rate not exceeding three per centum of their annual value upon all holdings situated within such portion of the said area for the purpose of defraying the whole expense of lighting: Lighting-rate not exceeding three per centum may, after sanction of plan, be imposed on holdings.

Proviso as to portions already lighted.

Provided that, as regards any portion of the said area already lighted with gas, for the future lighting of which a plan shall have been sanctioned by the Local Government under the provision of the last preceding section, if it shall appear that the estimated proceeds of the said rate at three per centum will not be sufficient to defray the whole expense of such lighting, it shall be lawful for the commissioners to impose a rate sufficient to defray the whole expense of lighting such portion.

Rate payable by occupiers quarterly in advance.

310. The rate imposed under the last preceding section upon holdings shall be paid by the occupiers thereof by quarterly instalments in advance; but no rate shall be leviable until the lamps in the portion of the area to be lighted shall have been lighted; nor shall any rate be leviable for any quarter or portion of a quarter antecedent to such lighting.

Valuation, assessment, and collection of lighting-rate.

311. The annual value of holdings shall be the value determined by the commissioners for the imposition of the rate on holdings under the provisions of Part IV of this Act, or, if no such rate on holdings be imposed, the annual value shall be ascertained and determined in the manner provided in that Part. And the provisions of sections 96 to 109 (both inclusive), and 112 to 130 (both inclusive), shall, *mutatis mutandis*, and so far as they are not inconsistent with the provisions of this Part, be applicable to the assessment and collection of the lighting-rate.

Power to assess owners in certain cases.

312. If any holding shall be occupied by more than one tenant holding severally, or shall be of less annual value than one hundred rupees, it shall be lawful for the commissioners to recover the rate from the owner of such holding.

Owner to recover from the occupier rates paid by owner.

313. Whenever any rate shall be recovered from any owner of any holding under the provisions of the last preceding section, it shall be lawful for such owner, if there shall be but one occupying tenant of such entire holding, to recover from such tenant the entire amount of the rate which shall have been so paid by such owner; and, if there shall be one occupying tenant of a part of such holding or more than one occupying tenant of such holding, then to recover from such tenant, or each of such tenants, such sum as shall bear to the entire amount of rate which may have been so recovered from such owner the same proportion as the value of the portion of such holding in the occupation of such tenant bears to the entire value of such holding, subject, however, to the provisions of the next succeeding section.

Owner may recover rate so paid as rent.

314. Every owner who, under the provisions of the last preceding section, may be entitled to recover any sum from any occupying tenant of any holding or of any portion thereof shall have for the recovery of such sum all such and the same remedies, power, rights and authorities as if such sum were rent pay-

able to such owner by such tenant in respect of so much of such holding as may be in the occupation of such tenant.

315. Every occupier shall be liable to the lighting-rate for the time of his occupation. When any person shall have been an occupier for a part only of any quarter, he shall be liable only for so much of the rate for that quarter as may be proportionate to the number of days during which he shall have been an occupier.

Occupier liable to the rate for time of occupation only.

If he shall have paid the rate in advance, the amount paid in excess of the sum due under this section shall be refunded.

Excess paid in advance to be refunded.

No such rate shall be chargeable to any person on account of any unoccupied holding for the time during which it may remain unoccupied:

No rate to be charged during vacancy.

Provided always that, when any person ceases to be the occupier of any holding upon which the rate has been assessed, he shall give the commissioners notice to that effect within seven days from the date of the cessation of his occupancy. If the occupier fail to give such notice within such period, he shall be liable to the rate assessed on such holding for the whole quarter, although he may have occupied for a part only of such quarter; and, in cases to which the provisions of section 312 apply, the rate assessed on such holding for the whole quarter shall be recoverable from the owner, if such owner has failed to give notice that such holding is unoccupied, within seven days from the date on which it ceased to be occupied.

Notice of cessation of occupancy to be given within seven days.

316. When the name of the owner or occupier of any holding is not known, it shall be sufficient to designate him, in any notice served or proceeding held under this Part, as the owner or the occupier of the holding on which the rate is assessed, and without further description.

Unknown owner or occupier how to be designated.

317. If the commissioners deem it necessary for the purposes of this Part to raise, sink or otherwise alter the situation of any gas-pipe or other gas-work laid in any portion of the said area, they may from time to time, by notice in writing, require the person to whom any such pipe or work belongs, or under whose control it may be, to cause forthwith, or as soon as conveniently may be, any such pipe or work to be raised, sunk or otherwise altered in position, in such manner as the commissioners may direct:

Situation of gas-pipe or other gas-work to be altered at the expense of the commissioners.

Provided that such alteration be not such as permanently to injure such pipe or work, or to prevent the gas from flowing as freely and conveniently as before; and the expenses attending such raising, sinking or altering, and full compensation for the damage done thereby, shall be paid by the commissioners out of the municipal fund as well to the person to whom such pipe or work belongs as to all other persons.

If owner, &c., neglect to make alterations, the commissioners may cause the same to be made

318. If the person to whom any such pipe or work belongs, or under whose control it may be, do not proceed forthwith, or as soon as conveniently may be, after the receipt of such notice, to cause the same to be raised, sunk or altered in such manner as the commissioners require, the commissioners may themselves cause such pipe or work to be raised, sunk or altered as they may think fit:

Provided that such works be not permanently injured thereby, or the gas prevented from flowing as freely and conveniently as before.

Provisions applicable to other systems of lighting.

319. The provisions of this Part shall apply, so far as may be possible, to any scheme which may be adopted by the commissioners of any municipality for lighting the municipality under any system involving the laying of pipes or wires or other similar apparatus.

PART IX.

Of the Construction and Cleansing of Latrines.

Notice to be issued by the commissioners.

320. In any municipality to which the provisions of this Part shall have been extended in the manner prescribed by section 222 the commissioners may issue a notice declaring that, from a date to be specified in such notice, they will maintain an establishment for the cleansing of public and private latrines within the limits of the municipality, or any part thereof; and the commissioner shall make suitable provision accordingly.

Commissioners may levy fees.

321. When such provision has been made, the commissioners may levy fees, to be fixed on such scale, with reference to the annual value of holdings within the limits of the municipality, or such part thereof as aforesaid, as the commissioners at a meeting may from time to time direct;

but the fee shall not exceed three rupees per annum where the valuation of the holding amounts to, or is less than, twenty-five rupees;

and the fee on any one holding shall not exceed four hundred and eighty rupees:

Provided that if, on the commencement of this Act, the owners or occupiers of any holding are already under engagement to pay to the commissioners an annual sum exceeding four hundred and eighty rupees for the cleansing of their premises, such sum, or such other sum as may from time to time be agreed upon between them and the commissioners, may be levied from them in accordance with the provisions of this Part.

322. The said fee shall be payable by the occupier for the time being of the holding, or by the owner thereof under the next succeeding section, in quarterly instalments, and shall be recoverable in the manner prescribed for the recovery of the rate on the value of holdings in this Act. Recovery of fees.

Every instalment of the said fee shall be deemed to be due on the first day of the quarter in respect of which such instalment is payable.

The proceeds of the said fees shall be applied to the maintenance of the said establishment, and to the providing of public latrines and generally to carrying out the provisions of this Part.

A list of the said fees, and of the persons liable to pay the same, shall be published once in every year as prescribed in section 354.

323. If any holding is occupied in severalty by more than one person, the commissioners may levy the said fee from the owner of such holding, who may recover from each occupier such sum as shall bear to the entire amount of the fee so levied the same proportion as the value of the part of the holding in the occupation of such person bears to the entire value of the holding. In certain cases fee may be levied from owner, who may recover from occupier.

324. Every owner who, under the provisions of the last preceding section, is entitled to recover any sum from the occupier of any part of a holding, shall have for the recovery of the said sum all such and the same remedies, powers, rights and authorities as if such sum were rent payable to him by the occupier in respect of such portion of the holding as may be in his occupation. Owner may recover fees from occupier as rent.

325. The commissioners at their discretion may compound, for any period not exceeding one year, with any occupier or owner as aforesaid of any railway premises or of any premises used as a factory, dockyard, workshop, coolie depôt, school, hospital, market, court-house or other similar place, for a certain sum to be paid by such occupier or owner in lieu of such fee. Commissioners may compound with occupier or owner of certain premises for fee.

326. The commissioners may, in lieu of the aforesaid fee, levy a rate per head, to be fixed by the said commissioners at a meeting, on the number of persons living within or habitually resorting to any such railway premises, factory, dockyard, workshop, coolie depôt, school, hospital, market, court-house or other similar place. Commissioners may levy a rate per head.

327. The commissioners may reduce the amount of a fee payable under this Part, or may remit the fee if in their opinion the levy of it would be productive of excessive hardship to the person liable to pay the same. Commissioners may reduce or remit fee.

328. Whoever refuses to pay any fee or rate due under this Part, or having compounded for the payment of a certain sum under section 325 Penalty.

refuses to pay such sum, shall be liable on conviction to a fine exceeding three times the amount payable by him, exclusive of the amount so payable.

Exemption from prosecution under section 217.

329. No person liable to pay a fee or rate under the provisions of this Part shall be punished with fine for neglecting or refusing to keep his privy in a proper state under section 217, clause (3).

Powers of servants of commissioners.

330. All servants of the commissioners employed for the purposes of this Part may, within such hours as may be fixed by the commissioners, enter on any premises of which the occupier or owner is liable to pay a fee or rate as aforesaid, and do all things necessary for the performance of their duties under this Part.

Commissioners may require night-men to take out licenses.

331. The commissioners at a meeting may make an order requiring all persons employed in the removal of sewage within the limits of the municipality, or any part thereof, to take out licenses, and to be servants of the commissioners for the purpose of removing sewage from premises within the said limits.

The commissioners at a meeting may grant such licenses subject to such conditions as they may think fit, and may impose fees in respect of the same.

Subject to the approval of the Local Government, the commissioners may make rules to define the duties of such persons, and from time to time may alter, add to or repeal such rules; and any breach of such rules shall subject the offender to a forfeiture of license, and to a fine not exceeding twenty rupees.

Commissioners may require latrine to be constructed, and in default may construct themselves.

332. If the commissioners think that any latrine or additional or common latrine should be provided for any house or land within the limits of the municipality, the owners of such house or land shall, within fourteen days after notice given by the commissioners, or within such longer time as the commissioners may for special reasons allow, cause such latrine to be constructed in accordance with the requisition of such notice; and, if such latrine is not constructed to the satisfaction of the commissioners within such period, the commissioners may cause the same to be constructed, and the expenses thereby incurred shall be paid by the owners, and shall be recoverable as provided in section 322.

Commissioners may require list of persons in a holding.

333. The commissioners may, for the purposes of this Part, by a notice in writing, require the owner or occupier of any holding to furnish, within a time to be specified in the notice, a list of the number of persons residing in, or habitually resorting to, such holding.

Penalty.

334. Whoever, being the owner or occupier of any holding, fails to furnish such list within the time specified in such notice, after being required to furnish

the same by the commissioners, shall be liable to a fine not exceeding one hundred rupees.

PART X.

Regulation of Markets.

335. In any municipality to which this Part shall have been extended in the manner prescribed by section 222 the commissioners at a meeting may provide land for the purpose of being used as a municipal market, and may defray the cost of providing such land and of all expenses necessary for the establishment of such market from the municipal fund, and may take a lease of any market; *Power to construct markets.*

and may charge rent, tolls and fees for the right to expose goods for sale in such market and for the use of shops, stalls and standings therein.

All such rents, tolls and fees may be recovered as arrears of tax under the provisions of sections 120 to 129 (both inclusive).

336. No place shall be deemed to be "a municipal market" within the meaning of the last preceding section, and no place shall be deemed to be a market to which the following sections of this Part apply, unless at least thirty shops, stalls or standings are erected therein for the sale of goods. *Definition of "municipal market."*

337. The commissioners at a meeting may order that, within such limits as they may fix, no land shall be used as a market for the sale of meat, fish, butter, ghee, fruits, vegetables and similar provisions, otherwise than under a license to be granted by the commissioners. *Commissioners may prohibit use of unlicensed markets.*

338. When the commissioners at a meeting shall have issued an order under the last preceding section, they may at a meeting grant a license for the use of any land as a market for the sale of provisions as aforesaid within the municipality. *Power to grant licenses for markets.*

339. Every license granted under this Part shall be liable to the payment of a fee not exceeding twenty-five rupees, and shall be in force until the end of the year, and the commissioners may grant such license, year by year, on the certificate in writing under the hand of the chairman, annually renewed, that the land is fit to be used as a market for the sale of provisions as aforesaid. *Duration of licenses and terms on which granted.*

340. The chairman, upon the application in writing of the owner of any land, shall grant such certificate unless the land be defective for the purposes of a market in drainage, ventilation, water-supply or proper width of paths and ways. *Chairman bound to certify fit places.*

The owners or lessees of all land used as markets for the sale of provisions *Existing markets.*

as aforesaid at the time of the extension of this Part to the municipality shall be entitled to receive a license for the current year without the certificate required by section 339, but in subsequent years the license shall not be renewed without such certificate.

Licenses to be registered.

341. Every license under this Part shall be registered in a book to be kept for that purpose by the commissioners in their office, in which shall be stated—

(*a*) the name and address of the owner of the land and market;

(*b*) the name and address of the lessee thereof (if any);

(*c*) the extent and boundary of the market;

(*d*) the description of articles sold therein; and

(*e*) the days on which the market will be held.

Transfers to be registered.

342. Every transfer of interest in any such market shall be registered within two months after the date of transfer.

Unregistered markets to be deemed unlicensed.

343. Any market the license of which, or the transfer of interest in which, shall not have been duly registered under the two last preceding sections, shall be deemed to be land used as a market without a license.

Penalty for using unlicensed market.

344. Whoever, being the owner or occupier of any land, wilfully or negligently permits the same to be used as a market for the sale of meat, fish, butter, ghee, fruits, vegetables or similar provisions without license under section 338, shall be liable to a fine not exceeding two hundred rupees for every such offence, and to a further fine not exceeding forty rupees for each day during which the offence is continued after conviction of such offence.

Power to close unlicensed places.

345. The Magistrate, on the application of the commissioners, may order any land, in respect of which a conviction shall have been obtained under the last preceding section, to be closed as a market-place, and thereupon may take order to prevent such land being so used; and every person who shall sell or expose for sale meat, fish, butter, ghee, fruits, vegetables or similar provisions, on any land which shall have been so closed, shall be liable, for every such offence, to a fine not exceeding ten rupees.

PART XI.

Of the Registration of Births and Deaths.

Registration of births and deaths.

346. The commissioners of any municipality, when required by the Local Government to do so, shall provide for the registration of births and deaths within the limits of the municipality in accordance with the provisions of

Bengal Act IV of 1873[a] (*for registering births and deaths*), or any other similar Act for the time being in force.

On requisition of Government, commissioners to appoint sub-registrars at burning-ghâts and burial-grounds.

347. The Local Government may require the commissioners of any municipality to appoint and maintain at any burning-ghât and burial-ground a sub-registrar for the registration of all corpses brought to such burning-ghât or burial-ground for cremation or interment.

Information required by Ben. Act IV of 1873 to be given to such sub-registrar.

348. Whenever a sub-registrar shall have been appointed for any burning-ghât or burial-ground under the last preceding section, information of the particulars required by section 8 of Bengal Act IV of 1873[a] to be known and registered may be given in respect of the death of any person whose body is brought to such burning-ghât or burial-ground for cremation or interment to such sub-registrar, and information so given shall be deemed to be information given to the registrar of the district as required by the said section.

Section 9 of Bengal Act IV of 1873[a] shall be applicable to all sub-registrars appointed under this Act.

Information of deaths in hospitals.

349. Whenever a death shall occur in any hospital within the limits of any municipality in respect of which the Local Government has directed that all deaths shall be registered under Bengal Act IV of 1873,[a] it shall be the duty of the medical officer in charge of such hospital forthwith to send a notice in writing of the occurrence of such death to the commissioners in such form as the Local Government may prescribe; and in such case no other person shall be required to give information of such death to a registrar under Bengal Act IV of 1873[a] or to a sub-registrar under this Act.

PART XII.

MISCELLANEOUS.

Power to impose penalties on breach of bye-laws.

350. The commissioners of any municipality may, from time to time, at a meeting which shall have been convened expressly for the purpose, and of which due notice shall have been given, frame such bye-laws as they deem fit, not being inconsistent with this Act, or with any other general or special law, for giving effect to the objects of this Act, and may by such bye-laws impose on offenders against the same such reasonable penalties as they think fit, not exceeding the sum of fifty rupees for each offence, and in case of a continuing

[a] For Ben. Act IV of 1873, see *supra*, p. 188.

offence a further penalty not exceeding twenty rupees for each day after written notice of the offence from the commissioners.

Confirmation of bye-laws.

351. Bye-laws made under this Act shall not take effect unless and until they have been submitted to, and confirmed by, the Local Government; nor shall such bye-laws be confirmed—

unless one month at least before the making of the application notice of the intention to apply for confirmation has been given in one or more of the local newspapers circulated within the municipality to which such bye-laws relate, or if there be no such newspapers, then in such manner as the commissioners may direct; and unless for one month at least before any such application a copy of the proposed bye-laws has been kept at the office of the commissioners, and has been open during office hours thereat to the inspection of the inhabitants of the municipality to which such bye-laws relate, without fee or reward.

The commissioners shall, on the application of any inhabitant of the municipality, furnish him with a copy of such proposed bye-laws, on payment of four annas for every hundred words contained in the copy.

A bye-law requiring confirmation by the Local Government shall not require confirmation, allowance or approval by any other authority.

ioners may direct prosecution for public nuisance.

352. The commissioners may direct any prosecution for any public nuisance, and may order proceedings to be taken for the recovery of any penalties under this Act, and for the punishment of any persons offending against the same, and may order the expenses of such prosecution or other proceedings to be paid out of the municipal fund.

No prosecution for an offence under this Act to be instituted without consent of commissioners.

353. No prosecution for an offence under this Act or any bye-law made in pursuance thereof shall be instituted without the order or consent of the commissioners, and no such prosecution shall be instituted except within three months next after the commission of such offence, unless the offence is continuous in its nature, in which case a prosecution may be instituted within three months of the date on which the commission or existence of the offence was first brought to the notice of the chairman of the commissioners:

Provided that the failure to take out any license under this Act shall be deemed to be a continuing offence until the expiration of the period for which such license is required to be taken out.

Publication of order.

354. Every bye-law, order, notice or other document directed to be published under this Act shall be written in, or translated into, the vernacular of the district, and deposited in the office of the commissioners, and a copy shall be posted up in a conspicuous position at such office, and in such other public places as the commissioners may direct.

And a public proclamation shall be made throughout such municipality by beat of drum, notifying that such copy has been so posted up, and that the original is open to inspection in the office of the commissioners.

Levy of fines.

355. Fines under this Act may be imposed by a Magistrate on any person who is convicted of the offence to which the fine attaches, and may be levied under the provisions of the Code of Criminal Procedure, 1882.[a]

X of 1882.

How notice, &c., may be served.

356. Every notice, bill, form, summons or notice of demand under this Act may be served personally on or presented to the person to whom the same is addressed;

or be left at his usual place of abode with some adult male member or servant of his family;

or, if it cannot be so served, presented or delivered, may be put on some conspicuous part of his place of abode;

or of the land, building or other thing in respect of which the notice, bill, form, summons or notice of demand is intended to be served.

Service of notice on owner or occupier of land.

357. When any notice is required to be given to the owner or to the occupier of any land, such notice, addressed to the owner or occupier, as the case may require, may be served on the occupier of such land, or otherwise in the manner in the last preceding section mentioned:

Provided that, when the owner and his place of abode are known to the commissioners or other authorities issuing the notice, they shall, if such place of abode be within the limits of their authority, cause every notice required to be given to the owner of any land to be served on such owner, or left with some adult male member or servant of his family;

and, if the place of abode of the owner be not within such limits, they shall send every such notice by post in a registered cover addressed to his place of abode, and such service shall be deemed to be good service of the notice.

When the name of the owner or occupier is not known, it shall be sufficient to designate him as "the owner" or "the occupier" of the land in respect of which the notice is served.

Tax not invalid for want of form.

358. No assessment or rating of tax on property shall be invalid for error or defect of form, and it shall be enough in any assessment, valuation or rating for the purpose of making such tax if the property so assessed or valued is so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof.

Holder of license to produce it when required.

359. Every person to whom a license has been granted under this Act shall at all reasonable times, while such license shall remain in force, if thereunto required by the authorities which granted the license or by any person

[a] See Act X of 1882, ss. 386 *et. seq.*, in General Acts, 1882 (Pt. I), p. 350.

authorized by them in that behalf, produce such license to the said authorities or to the person so authorized.

Penalty.

Whoever fails to produce his license when required to produce the same by any person authorized under this section to demand the production thereof shall be liable to a fine not exceeding one hundred rupees.

Recovery of moneys due to the commissioners.

360. All costs, expenses, fees, tolls or other moneys due under this Act to the commissioners of any municipality may be recovered in the manner provided in sections 120 to 129 (both inclusive).

Power to sell unclaimed holdings for money due.

361. If money be due under this Act in respect of any holding from the owner thereof, on account of any tax, expenses or charges recoverable under this Act, and if the owner of such holding is unknown or the ownership thereof is disputed, the commissioners may publish twice, at an interval of three months, a notification of sale of such holding, and, after the expiry of not less than three months from the date of the last publication, unless the amount recoverable be paid, may sell such holding to the highest bidder, who shall, at the time of sale, deposit the full amount of the purchase-money.

After deducting the amount due to the commissioners as aforesaid, the surplus sale-proceeds (if any) shall be credited to the municipal fund and may be paid on demand to any person who establishes his right to the satisfaction of such commissioners or in a Court of competent jurisdiction.

Any person may pay the amount due at any time before the completion of the sale, and may recover such amount by a suit in a Court of competent jurisdiction from any person beneficially interested in such property.

Compensation for damages.

362. The commissioners may make compensation out of the municipal Fund to any person sustaining any damage by reason of the exercise of any of the powers conferred by this Act.

No action to be brought against the commissioners or their officers until after one month's notice of cause of action.

363. No suit shall be brought against the commissioners of any municipality, or any of their officers, or any person acting under their direction, for anything done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of such commissioners and also (if the suit is intended to be brought against any officer of the said commissioners or any person acting under their direction) at the place of abode of the person against whom such suit is threatened to be brought, stating the cause of suit and the name and place of abode of the person who intends to bring the suit;

and, unless such notice be proved, the Court shall find for the defendant.

Every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards.

If the commissioners or their officer, or any person to whom any such

notice is given, shall before suit is brought tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Chaukidári chakran lands.

364. Notwithstanding anything contained in section 3 of Bengal Act VI of 1870[a] (*an Act to provide for the appointment, dismissal and maintenance of village-chaukidárs*) the provisions of Part II of the said Act, relating to chaukidári chakran lands, shall be applicable to all such lands which have been assigned before the commencement of the said Act for the benefit of any part of a municipality, and all duties and functions which the pancháyat of a village or any member thereof is required to discharge under the provisions of the said Part shall be discharged, and all powers which the pancháyat of a village or any member thereof is authorized to exercise under the said Part shall be exercised, by the commissioners of such municipality, and the proceeds of the assessment on such lands made under the said Part shall be paid into the municipal fund, and shall be available for the purposes of such fund.

Police-officer to report offences and arrest persons refusing to give name and residence.

365. All police-officers shall give immediate information to the commissioners of the municipality of any offence committed against this Act.

When any person, in the presence of a police-officer, commits, or is accused of committing, any such offence, and refuses, on demand of a police-officer, to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained; and he shall, within twenty-four hours from the arrest, be forwarded to the nearest Magistrate, unless before the expiration of that time his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate, if so required.

Penalty — officers, &c., taking unauthorized fee

366. If any person employed under this Act (not being a public servant
XLV of 1860. within the meaning of section 21 of the Indian Penal Code[b]) shall accept or obtain, or agree to accept or attempt to obtain, from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing or forbearing to do any official act, or for showing or forbearing to show in the exercise of his official functions favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person with the commissioners or with any public servant or with the Government in the discharge of his official duties, he shall be punished with imprisonment, either simple or rigorous as provided in section 53
XLV of 1860. of the Indian Penal Code,[c] for a term which may extend to three years, or with a fine not exceeding five thousand rupees, or with both.

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[a] See *supra*, p. 154. [b] See General Acts, 1834—66, 2nd Ed., p. 243.
[c] See General Acts, 1834—66, 2nd Ed., p. 249.

Saving clause.

367. Nothing in this Act contained shall be construed to—

(*a*) render lawful any act or omission on the part of any person which, but for this Act, would by law be deemed to be a nuisance;

(*b*) exempt any person guilty of nuisance from a suit in respect thereof;

(*c*) affect any enactment not hereby expressly repealed.

THE FIRST SCHEDULE.

(*See sections 8 and 17.*)

Municipalities in which the Commissioners shall be appointed by the Local Government.

District.	Municipality.
Khoolna	Chundurea.
Ditto	Debhatta.
Darjeeling	Darjeeling.
Hazáribágh	Hazáribágh.
Singhbhoom	Chyebassa.
Backergunge	Nalchiti.
Ditto	Jhalokhati.
Chittagong	Cox's Bázár.
Mozufferpore	Lallgunge.
Ditto	Sitamurhee.
Durbhunga	Rosera.
Chumparun	Bettiah.
Bhaugulpore	Colgong.
Cuttack	Jajpore.
Ditto	Kendrapara.

THE SECOND SCHEDULE.

(*See sections 8 and 23.*)

Municipalities in which the Chairman shall be appointed by the Local Government.

District.	Municipality.
Burdwan	Dainhat.
Hooghly	Utterpara.
24-Pergunnahs	[*Suburbs of Calcutta.*] *Rep. by Ben. Act II of 1888.*
Ditto	Barripore.

THE SECOND SCHEDULE—*continued.*

District.	Municipality.
Nuddea	Santipore.
Ditto	Beernagore.
Ditto	Moheshpore.
Moorshedabad	Kandi.
Darjeeling	Darjeeling.
Hazáribágh	Hazáribágh.
Ditto	Chuttra.
Lohardugga	Ranchee.
Singhbhoom	Chyebassa.
Manbhoom	Purulia.
Chittagong	Cox's Bázár.
Patna	Patna.
Gya	Gya.
Shahabad	Sasseram.
Ditto	Bhubooah.
Mozufferpore	Sitamurhee.
Durbhunga	Durbhunga.
Ditto	Mudhoobunnee.
Sarun	Sewan.
Chumparun	Bettiah.
Cuttack	Jajpore.
Ditto	Kendrapara.

THE THIRD SCHEDULE.

FORM A.—(*See section 112.*)

Notice to be published of the preparation of the List of Assessment on Persons.

BENGAL MUNICIPAL ACT, 1884.

(*Section 112.*)

MUNICIPALITY OF .

Whereas an assessment-list of the tax upon persons occupying holdings has been deposited in the office of the commissioners as required by section 112 of the Bengal Municipal Act, 1884, notice is hereby given that the said list is open to the inspection of all persons desiring to inspect the same at the office of the said commissioners during office hours on any day not being a close holiday, and that the several persons whose names are included in the said

THE THIRD SCHEDULE—*continued.*

FORM A—*continued.*

assessment are hereby required to pay the quarterly instalments set opposite to their names with regularity at the office appointed by the commissioners for the receipt of the same, or to the tax-collector or other officer authorized to receive payment, the first payment to be made on the first day of ( ), and every subsequent payment on or before the first day of ( ), the first day of ( ) and the first day of ( ), or in default thereof any arrear that may be due will be realized by distress and sale of the moveable property belonging to the defaulter or which may be found on the holding in respect of which such defaulter is assessed, and by such other proceedings as are allowed by law.

Dated this day of

A. B.,
Chairman of Commissioners.

FORM B.—(*See section 112.*)

Notice to be published of the preparation of the Valuation and Rating List of Holdings.

BENGAL MUNICIPAL ACT, 1884.

(*Section 112.*)

MUNICIPALITY OF

Whereas a valuation and rating list of the rate on the annual value of holdings has been deposited in the office of the commissioners as required by section 112 of the Bengal Municipal Act, 1884, notice is hereby given that the said list is open to the inspection of all persons desiring to inspect the same at the office of the said commissioners during office hours on any day not being a close holiday; and that the several owners of the holdings included therein are hereby required to pay the quarterly instalments set opposite to their names with regularity at the office appointed by the commissioners for the receipt of the same, or to the tax-collector or other officer authorized to receive payment, the first payment to be made on the first day of ( ), and every subsequent payment on or before the first day of ( ), the first day of ( ) and the first day of ( ), and in default thereof any arrear that may be due will be realized by distress and sale of the moveable property belonging to the defaulter, or which may be found on the holding in respect of which the valuation is made, and by such other proceedings as are allowed by law.

Dated this day of

A. B.,
Chairman of Commissioners.

THE FOURTH SCHEDULE.

FORM A.—(*See section 120.*)

Notice of Demand under section 120.

BENGAL MUNICIPAL ACT, 1884.

To

MUNICIPALITY OF

Take notice that the sum of Rs. , being the amount due from you as shown in the accompanying bill, is hereby demanded from you, and that if you do not within fifteen days pay the same to an officer authorized to receive payment, or into the office of the municipal commissioners, the amount together with costs will be levied by distress and sale of your goods and chattels, or otherwise as provided by law.

A. B.,
Chairman of Commissioners.

[*The following note will be added at the foot of the above notice in those cases only in which the notice is to be addressed to a person who has not already paid one instalment of the tax at the rate at which the demand is made.*]

Note.—If you have any objection to make against this demand, you may, instead of paying the amount which is hereby demanded, present a petition to the commissioners praying for a review of the amount assessed (or rated). Such petition must be presented within fifteen days of the service of this notice, otherwise it will not be received. If you present such petition, no amount will be levied from you until the commissioners shall have passed an order on your petition; but after fifteen days from such order the amount due by you, with such costs as the commissioners may direct, will be levied unless it has been previously paid.

B.—(*See section 121.*)

TABLE OF FEES PAYABLE UPON DISTRAINTS UNDER THIS ACT.

Sums distrained for.	Fee. Rs.	A.
Under 1 rupee	0	4
1 and under 5 rupees	0	8
5 „ 10 „	1	0
10 „ 15 „	1	8
15 „ 20 „	2	0
20 „ 25 „	2	8
25 „ 30 „	3	0
30 „ 35 „	3	8
35 „ 40 „	4	0
40 „ 45 „	4	8
45 „ 50 „	5	0
50 „ 60 „	6	0
60 „ 80 „	7	8
80 „ 100 „	9	0
Above 100 „	10	0

THE FOURTH SCHEDULE—*continued.*

B—*continued.*

The above charge includes all expense including the service of notice of demand, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man. If the amount demanded be paid or the warrant discharged before the sale is held so that no sale is necessary, one-fourth of the fees specified in the above table shall be remitted.

FORM C.—(*See section 122.*)

Distress Warrant.

BENGAL MUNICIPAL ACT, 1884 (*section 122*).

To (here insert the name of the officer charged with the execution of the warrant).

Whereas of has not paid or shown sufficient cause for the non-payment of the sum of rupees due for taxes (or rates) mentioned in the margin, although the said sum has been duly demanded in writing from the said , and fifteen days have elapsed since the service of the notice of demand; This is to require you to distrain the moveable property of the said wherever it may be found within the municipality, except ploughs, plough-cattle, tools or implements of trade or agriculture, or any other moveable property, subject to the same exceptions, which may be found within the holding specified in the margin to the amount of the said sum of and the further sum of to defray the charges of taking, keeping and selling such property; and, if within ten days next after such distress the said sum of shall not be paid, to sell the said property, and having paid and deducted out of the proceeds of the sale the said sum of and the charges of taking, keeping and selling such property, to return the surplus (if any) on demand to the person whom you shall have found in possession of the said property, and, if no demand be made, to pay the same to the commissioners. If distress cannot be made of sufficient property of the said you are to certify the same to us in returning this warrant.

A. B.,

Chairman of

THE FOURTH SCHEDULE—*continued.*

FORM D.—(*See section 122.*)

Form of Inventory and Notice.

BENGAL MUNICIPAL ACT, 1884 (*section 122*).

(*State particulars of goods seized.*)

Take notice that I have this day seized the property specified in the above inventory for the sum of due for the taxes (or rates) mentioned in the margin, and that, unless you pay to me or into the office of the commissioners of the said sum of and the further costs of this distraint as specified below, within ten days from the day of the date of this notice, the property will be sold.

(*Signature of the officer executing the warrant of distress.*)

Costs of distraint—
Date

FORM E.—(*See section 124.*)

Register of distraints of property and sales held on account of arrears for the month of in

1. Name of defaulter.
2. Number on register and specification of the holding on account of which the arrear is due.
3. Amount of arrear due.
4. Amount of costs and penalty.
5. Total amount to be realized.
6. Inventory of property seized under distress.
7. Date of distress.
8. Date of sale.
9. Detail of articles sold.
10. Amount realized on each article.
11. Purchaser's name.
12. Total amount realized.
13. Amount paid into the commissioners' office on account of the arrear due, with date.
14. Amount paid into the commissioners' office on account of costs and penalties.

THE FOURTH SCHEDULE—*continued.*

FORM E—*continued.*

15. Surplus proceeds of sale remaining after deducting the amount of arrears, costs, penalties due.
16. How the surplus was disposed of, with date of such disposal.
17. Balance of arrear still remaining unrealized, if any.
18. On what date such remaining balance was realized or written off by authority.
19. Remarks (explaining why the property seized was released without sale if not eventually sold, &c., &c.).

THE FIFTH SCHEDULE.

(*See sections 86 and 131.*)

TAX ON CARRIAGES AND ANIMALS.

	Per quarter. Rs.	A.
For every 4-wheeled carriage drawn by two horses	4	8
For every 4-wheeled carriage drawn by one horse or a pair of ponies under 13 hands	3	0
For every 2-wheeled carriage	2	8
For every horse	2	0
For every pony under 13 hands, and for every mule and donkey .	0	12
For every elephant	6	0
For every camel	2	0

Carriages the wheels f which do not exceed twenty-four inches in diameter are exempted.

THE SIXTH SCHEDULE.

(*See sections 2 and 4.*)

Act of the Governor General in Council.

Number and year.	Subject.	Extent of repeal.
XXI of 1857 . .	To make better provision for the order and good government of the station of Howrah.	Sections 4, 5, 6, 8, 9, 16, 17, 24, 33, 34, 35, 36, 37, 39, 46.

SIXTH SCHEDULE—*continued.*

Acts of the Lieutenant-Governor of Bengal in Council.

Number and year.	Subject.	Extent of repeal.
V of 1873 . . .	To provide for the levy of a lighting rate in Howrah.	The whole Act.
V of 1876[a] . .	To amend and consolidate the law relating to Municipalities.	Ditto.
VI of 1878 . . .	To provide for the cleansing and construction of latrines in first class Municipalities.	Ditto.

ACT No. IV OF 1884.

Received the Lieutenant-Governor's assent on the 4th April, 1884, and the Governor General's assent on the 22nd April, 1884.

An Act to enable the Municipal Commissioners of Howrah and the Suburbs of Calcutta to contribute towards the cost of the Police employed in those Municipalities

WHEREAS it is expedient to make provision for the payment from the municipal fund of a portion of the cost of the police employed within the limits of the municipalities of Howrah and the Suburbs of Calcutta; Preamble.

It is enacted as follows:—

1. This Act may be cited as the Howrah and Suburban Municipal Police Act, 1884. Short title.

It extends to the municipalities of Howrah and the Suburbs of Calcutta. Extent.

Ben. III of 1884.

And it shall come into force on the day[b] on which the Bengal Municipal Act, 1884, shall come into force. Commencement.

2. Subject to the provisions of this Act, it shall be lawful to apply the municipal fund in Howrah and the Suburbs of Calcutta to the payment of the police employed in the said municipalities. Police chargeable to municipal fund.

3. All police-officers appointed or employed in the said municipalities shall be appointed under the provisions of Act V of 1861,[c] or of any similar Act for the time being in force, and shall be deemed to be a portion of the Police to be appointed under Act V of 1861.

[a] Ben. Act V of 1876 is still in force and in practical operation in parts of Assam, and will therefore be printed in the Assam Supplement. The Act is also possibly still in force in parts of the Chota Nagpore Division—see Vol. I, p. 678.

[b] *i.e.*, the 1st August 1884,—see *supra*, p. 668.

[c] See General Acts, 1834—66, 2nd Ed., p. 363.

police-establishments under the Government of Bengal, and shall be subject to the provisions of any such Act.

Preparation of police estimate.

4. An estimate shall be prepared, in such form as the Local Government shall prescribe, of the income and expenditure of the police-force in each of the aforesaid municipalities for the year next following the preparation of such estimate, and shall be presented to the municipal commissioners at least three months before the beginning of the year to which the estimate relates.

Contents of estimate.

5. The estimate for Howrah shall be prepared by the District Superintendent of Police, and that for the Suburbs of Calcutta by the Commissioner of Police for the Town of Calcutta, and shall show the number, constitution and salaries of the police-force to be maintained in each of the said municipalities.

Estimate to be considered by commissioners and forwarded to Magistrate and Commissioner of division.

6. The municipal commissioners, after considering the estimate at a meeting, shall forward the same, with any remarks or objections which they may record at the meeting, to the Magistrate of the district for transmission to the Commissioner of the division, who shall forward it to the Local Government.

Local Government to decide on estimate.

7. The Local Government shall consider the estimate so transmitted, and may approve or modify the same or any part thereof. The Local Government shall also determine what part of the expense of the police provided for in such estimate shall be borne by the municipality to which the same refers:

Provided that the expense so to be borne by the municipality shall not exceed two per centum on the total value of holdings within the municipality, and shall not exceed one-fourth of the total amount of the estimate as approved by the Local Government.

Municipal share of cost how to be entered and paid.

8. The amount which the Local Government may determine as aforesaid to be borne by the municipality shall be entered in the municipal estimate of expenditure to be prepared under section 72 of the Bengal Municipal Act, 1884,[a] and shall be paid by the commissioners from the municipal fund in quarterly instalments, on such dates as the Local Government may direct. Ben. III of 1884.

Saving of authority of Commissioner of Calcutta Police in Suburbs.

9. Nothing in this Act shall deprive the Commissioner of Police of the Town of Calcutta of any power or authority over the police in the Suburbs of Calcutta vested in him by Bengal Act II of 1866[b] (*for the better regulation of the Police within the Suburbs of the Town of Calcutta*).

And the Inspector-General of Police is hereby precluded from exercising over the police within the said Suburbs any of the powers and authorities vested in him by the said Act V of 1861.[c]

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[a] See *supra*, p. 687. [b] See *supra*, p. 46.
[c] See General Acts, 1834—66, 2nd Ed., p. 363.

ACT No. I OF 1885.

Received the Lieutenant-Governor's assent on the 6th April, 1885, and the Governor General's assent on the 15th May, 1885.

An Act to regulate Ferries in Bengal.

WHEREAS it is expedient to regulate ferries within the territories subject to the Lieutenant-Governor of Bengal; It is enacted as follows:— Preamble.

Preliminary.

1. This Act may be called the Bengal Ferries Act, 1885. Short title.

2. It shall extend to all the territories subject to the Lieutenant-Governor of Bengal: Extent and commencement of Act.

And it shall come into force on such date[a] as the Lieutenant-Governor may, by notification in the Calcutta Gazette, appoint in this behalf.

3. Regulation VI of 1819 and Bengal Act I of 1866 are hereby repealed; but all determinations, declarations, orders and rules made, engagements entered into and securities taken under such Regulation and Act shall be deemed to be respectively made, entered into and taken under this Act. Regulation VI of 1819 and Ben. Act I of 1866 repealed.

4. Nothing in this Act contained shall apply to any ferry deemed or declared to be a municipal ferry under the provisions of the Bengal Municipal Act, 1884.[b] Act not to apply to municipal ferries.

Ben. III of 1884

5. In this Act, unless there be something repugnant in the subject or context,— Interpretation.

"Commissioner" means the Commissioner of a division: "Commissioner."

"ferry" includes a bridge of boats, pontoons or rafts, a swing-bridge, a flying bridge, a temporary bridge, and a landing stage; "Ferry."

"notification" means a notification published in the Calcutta Gazette: "Notification."

"private ferries" includes all ferries other than those declared to be public ferries, or established as such, under section 6 of this Act. "Private ferries."

PART I.

PUBLIC FERRIES.

6. It shall be lawful for the Lieutenant-Governor from time to time to— Power to declare, establish, define and discontinue public ferries.

(*a*) declare what ferries shall be deemed public ferries, and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate;

[a] The Act came into force on the 1st August, 1885—see Calcutta Gazette, 24th June, 1885, Pt. I, p. 610.

[b] See *supra*, p. 668.

(*b*) take possession of a private ferry and declare it to be a public ferry;

(*c*) establish new public ferries where, in his opinion, they are needed;

(*d*) define the limits of any public ferry;

(*e*) change the course of any public ferry; and

(*f*) discontinue any public ferry which he deems unnecessary.

Every such declaration, establishment, definition, change or discontinuance shall be made by notification:

Provided that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river on which such ferry is established, such alteration may be made, by an order in writing, by the Magistrate of the district.

Control of public ferries vested in the Magistrate of the district.

7. The control of all public ferries shall be vested in the Magistrate of the district, subject to the direction of the Commissioner.

Superintendence of public ferries.

8. The immediate superintendence of every public ferry shall be vested in the Magistrate of the district in which such ferry is situated, or in such other officer as the Lieutenant-Governor may, from time to time, either by name or by official designation, appoint.

And such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorized tolls leviable thereat.

Ferry tolls may be leased by auction.

9. The tolls of any public ferry may, from time to time, be leased by public auction for such term as the Magistrate of the district in which such ferry is situated may, with the approval of the Commissioner, direct.

The Magistrate of the district or the officer authorized by him to conduct such auction may, for sufficient reason to be recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction.

Execution of contract by lessee.

The lessee of the tolls of every ferry which have been leased under this section shall execute a contract setting forth the conditions on which the tolls of such ferry are to be held, and shall give security for its due fulfilment.

Lessee of the tolls of a public ferry and his servants bound to conform to rules.

10. When the tolls of a public ferry have been duly leased, the lessee and every servant of the lessee shall be deemed to be legally bound to conform to the rules made under this Act for the management and control of such ferry.

Provision for the establishment of subsidiary ferry.

11. On the requisition of the Magistrate of the district the person in charge of a public ferry situate in such district shall maintain at one or more places, in addition to the place at which the said public ferry is established, and within two miles therefrom, such number of subsidiary ferries as may seem

to the Magistrate to be necessary for the public convenience: and all the provisions contained in this Act in regard to the management and control of public ferries shall be deemed applicable to any subsidiary ferry maintained under the requisition of the Magistrate.

Recovery of arrears from lessee.

12. All arrears due by the lessee of the tolls of a public ferry on account of his lease;

any pecuniary forfeiture for breach of contract inserted in the deed of contract or conditions of sale by public auction; and

all sums due from the lessee on the surrender of his lease under section 14,

may be recovered from the lessee or his surety (if any) as a demand under Bengal Act VII of 1880[a] or any other Act at the time being in force for the recovery of public demands.

Power to cancel lease.

13. The lease of the tolls of any public ferry shall be liable to be cancelled at once by the Magistrate of the district in which such ferry is situated, if it shall appear to such Magistrate that the lessee has failed to make due provision for the convenience or safety of the public within fifteen days after being required to do so by a notice in writing from such Magistrate.

Surrender of lease.

14. The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the Magistrate of the district in which such ferry is situated of his intention to surrender such lease, and on payment of such reasonable compensation as the Magistrate may, with the approval of the Commissioner, in each case direct.

Power to make rules in regard to public ferries.

15. The Magistrate of the district, with the approval of the Commissioner, may from time to time make rules consistent with this Act—

(*a*) for the management of all public ferries within such district, and for regulating the traffic at such ferries;

(*b*) for regulating the time and manner at and in which, the terms on which, and the person by whom, the tolls of such ferries may be leased by auction;

(*c*) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for; and

(*d*) generally to carry out the purposes of this Act:

And, when the tolls of a ferry have been leased under section 9, such Magistrate may, from time to time, with such approval as aforesaid, make additional rules consistent with this Act—

(*e*) for collecting the rents payable for the tolls of such ferries;

[a] See *supra*, p. 515.

(*f*) for regulating the returns of traffic to be, from time to time, submitted by the lessee of such ferries;

(*g*) in cases in which the communication is to be established by means of a bridge of boats, pontoons or rafts, or a swing-bridge, flying-bridge or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained, and opened for the passage of vessels and rafts through the same; and

(*h*) in cases in which the traffic is conveyed in boats, for regulating—

the number and kinds of such boats and their dimensions and equipment;

the number of the crew to be kept by the lessee for each boat;

the maintenance of such boats in good condition;

the hours during which, and the intervals within which, the lessee shall be bound to ply, and

the number of passengers, animals and vehicles, and the bulk and weight of other things that may be carried in each kind of boat at one trip;

and may, from time to time, with such approval as aforesaid, repeal or alter such rules.

Rules made under this section shall be subject to the control of the Lieutenant-Governor, and shall be published in the Calcutta Gazette in such manner as the Lieutenant-Governor directs, and shall thereupon have the force of law.

Private ferry not to ply within two miles of public ferry without sanction.

16. No person shall, except with the sanction of the Magistrate of the district, maintain a ferry to or from any point within a distance of two miles from the limits of a public ferry:

Provided that, in the case of any specified public ferry, the Lieutenant-Governor may, by notification, reduce or increase the said distance of two miles to such extent as he thinks fit:

Provided also that nothing hereinbefore contained shall prevent persons keeping boats to ply between two places, one of which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or shall apply to boats which the Magistrate of the district expressly exempts from the operation of this section.

Claims for compensation, and what amount to be awarded.

17. Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of, or a new public ferry, or subsidiary ferry, being established under section 6 or section 11, shall be enquired into by the Magistrate of the district in which such ferry is situated, who shall, with the approval of the Commissioner, award compensation to any person who may appear justly entitled thereto. Such compensation shall be

calculated upon an estimate of the annual net profit actually realized by such person from such ferry on an average of the five years next preceding such declaration, and shall in no case exceed the amount of fifteen times such net annual profit.

Tolls.

18. Tolls, according to such rates as may, from time to time, be fixed by the Magistrate of the district with the approval of the Commissioner, shall be levied on all persons, animals, vehicles and other things crossing any river by a public ferry and not employed or transmitted on the public service:

Provided that the Lieutenant-Governor may, from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

Where the tolls of a ferry have been leased under section 9, any such declaration, if made after the date of the auction, shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Magistrate of the district under this section.

Table of tolls.

19. The lessee or other person authorized to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed in the vernacular language, and also, if the Commissioner so directs, in English, in some conspicuous place near the ferry:

List of tolls.

and shall be bound to produce, on demand, a list of the tolls signed by the Magistrate of the district or such other officer as he appoints in this behalf.

Tolls, rents, compensation and fines how to be appropriated.

20. Except as provided by section 35, all tolls, rents and compensation received by or on behalf of the Government, and all fines levied under this Act, shall be appropriated in the first instance towards the payment of all charges incurred in carrying out the provisions of this Act, and the surplus, if any, shall be credited to such fund as the Lieutenant-Governor may from time to time direct.

Compounding for tolls.

21. It shall be lawful for the Magistrate of the district in which a public ferry is situated, with the approval of the Commissioner, from time to time to fix rates at which any person may compound for the tolls payable for the use of such ferry.

PART II.

Private Ferries.

Power to make rules in regard to private ferries.

22. The Commissioner may from time to time make rules, consistent with this Act, for the maintenance of order, and for the safety of passengers and property, at private ferries situated in his division.

Rules made under this section shall be subject to the control of the Lieutenant-Governor, and shall be published in the Calcutta Gazette in such manner as the Lieutenant-Governor directs, and shall thereupon have the force of law.

PART III.

PENALTIES AND CRIMINAL PROCEDURE.

Penalty for breach of provisions as to table of tolls, list of tolls and return of traffic.

23. Every lessee or other person authorized to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section 19,

or who wilfully removes, alters or defaces such table, or allows it to become illegible,

or who fails to produce on demand the list of the tolls mentioned in section 19,

and every lessee who neglects to furnish any return required under section 15,

shall be punished with fine which may extend to fifty rupees.

Penalty for taking unauthorized toll, and for causing delay.

24. Every such lessee or other person as aforesaid asking or taking more than the lawful toll, or without due cause delaying any person, animal, vehicle or other thing, shall be punished with fine which may extend to one hundred rupees.

Penalty for breach of rules made under sections 15 and 22 Cancelment of lease on default or breach of rules.

25. Every person breaking any rule made under section 15 or section 22 shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

26. When any lessee of the tolls of a public ferry makes default in the payment of the rent payable in respect of such tolls, or has been convicted of an offence under section 25, or having been convicted of an offence under section 23 or section 24, is again convicted of an offence under either of those sections, the Magistrate of the district may, with the approval of the commissioner, cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were leased.

Penalties on passengers offending.

27. Every person crossing by any public ferry who refuses to pay the proper toll, and every person—

who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll, or

who obstructs any toll-collector or lessee of the tolls of a public ferry, or any of his assistants, in any way in the execution of their duty under this Act, or

who, after being warned by any such toll-collector, lessee or assistant not to do so, goes, or takes any animals, vehicles or other things, into any ferry-boat, or upon any bridge at such a ferry, which is in such a state or so loaded as to endanger human life or property, or

who refuses or neglects to leave, or remove any animals, vehicles or goods from any such ferry-boat or bridge on being requested by such toll-collector, lessee or assistant to do so, or

who moors any boat, raft or other substance to, or in any way obstructs, any part of a public ferry,

shall be punished with fine which may extend to fifty rupees.

Penalty for plying within public ferry-course without license.

28. Whoever conveys for hire any passenger, animal, vehicle or other thing in contravention of the provisions of section 16 shall be punished with fine which may extend to fifty rupees.

Fines payable to lessee.

29. Where the tolls of any public ferry have been leased under the provisions hereinbefore contained, the whole or any portion of any fine realized under section 27 or section 28 may, notwithstanding anything contained in section 20, be, at the discretion of the convicting Magistrate or Bench of Magistrates, paid to the lessee.

Penalty for rash navigation and stacking of timber.

30. Whoever navigates, anchors, moors or fastens any vessel or raft, or stacks any timber, in a manner so rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and the toll-collector or lessee of the tolls of such ferry, or any of his assistants, may seize and detain such vessel, raft or timber pending the enquiry and assessment hereinafter mentioned.

Power to arrest without warrant.

31. The police may arrest without warrant any person committing an offence against section 27 or section 30.

Magistrate may assess damage done by offender.

32. Every Magistrate or Bench of Magistrates trying any offence under this Act may enquire into and assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine, or when the offence is one under section 30 by the sale of the vessel, raft or timber causing the damage, and of anything found in or upon such vessel or raft.

The Commissioner may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order.

PART IV.

MISCELLANEOUS.

Power to take possession of boats and other appliances on surrender or cancellation of lease.

33. On the cancelment or surrender of a lease, the Magistrate of the district may take possession of all boats and other appliances which have been used by the lessee in the working of the ferry; and may either retain the same permanently on payment of a fair price to the proprietor, or may retain them for such time as may be necessary, not exceeding three months, until he can make arrangements for such other boats and appliances as may be necessary, in which case the Magistrate of the district shall pay a fair sum to the owners for the use of the said boats and appliances:

Provided that, within a week of taking such possession, the Magistrate of the district shall be bound to give notice to the said lessee of his intention to retain the said boats and appliances permanently, or for a period to be specified in the notice.

Similar power in cases of emergency.

34. When any boats or their equipments, or any materials or appliances suitable for setting up a ferry, are emergently required for facilitating the transport of officers or troops of Her Majesty on duty, or of any other persons on the business of Her Majesty, or of any animals, vehicles or baggage belonging to such officers, troops or persons, or of any property of Her Majesty, the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as the Lieutenant-Governor may in each case direct) until such transport is completed.

Management may be vested in district board

35. It shall be lawful for the Lieutenant-Governor to order that any public ferry situated in any district in which a district board has been established under the provisions of the Bengal Local Self-government Act of 1885[a] shall be managed by such district board: and such district board shall have all the powers vested in the Magistrate of the district under this Act, except the powers specified in sections 7, 17 and 32, and the Lieutenant-Governor may further order that all or any part of the proceeds of such ferry and all or any part of the fines levied, and compensation received, under this Act in respect thereof, be paid into the district fund.[b] Ben. III of 1885.

And thereupon such ferry shall be managed, and such proceeds, fines and compensation shall be paid, accordingly.

The Lieutenant-Governor may from time to time vary or annul any order made under this section.

Delegation of powers.

36. The Lieutenant-Governor may, from time to time, delegate, under such restrictions as he thinks fit, any of the powers conferred on him by this

[a] See *infra*, p. 781. [b] See Ben. Act III of 1885, s. 52, *infra*, p. 795.

Act to any Commissioner or Magistrate of a district, or to such other officer or authority as he thinks fit, by name or by official designation.

ACT No. II OF 1885.

Received the Lieutenant-Governor's assent on the 14th March, 1885, and the Governor General's assent on the 23rd June, 1885.

An Act to enable the Commissioners for the Port of Calcutta to construct Docks.

WHEREAS it is expedient to empower the Commissioners for making Improvements in the port of Calcutta to construct docks at Kidderpore in connection with the port, and to raise loans for that purpose; **Preamble.**

And whereas the Secretary of State for India in Council has agreed to guarantee the payment of interest upon such loans;

And whereas the said Secretary of State has already advanced to the said Commissioners various sums for the purpose of commencing the construction of such docks;

It is enacted as follows:—

1. This Act shall be read with, and taken as part of, Act V of 1870[a] passed by the Lieutenant-Governor of Bengal in Council. **Construction.**

And it shall come into force on the date[b] on which it is published in the Calcutta Gazette with the assent of the Governor General. **Commencement.**

2. In this Act the word "dock" includes all basins, cuts, quays, wharves, warehouses, tramways and other works connected with the said docks and convenient for their use. **Interpretation of "dock."**

3. It shall be lawful for the Commissioners to construct docks at Kidderpore in connection with the said port, in such manner as the Lieutenant-Governor, with the previous sanction of the Governor General in Council, by notification published in the Calcutta Gazette, may sanction, and to equip, maintain and manage such docks. **Power to construct and maintain docks.**

4. The Commissioners may from time to time raise loans for the construction, equipment, maintenance and management of the said docks, to such amount and at such rate of interest as the Lieutenant-Governor, with the previous sanction of the Governor General in Council, by notification published in the Calcutta Gazette, may sanction. **Power to raise loans for construction, &c., of such docks.**

5. The said Secretary of State, at any time not less than ten years after a **Repayment of principal.**

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[a] See *supra*, p. 130. [b] *i.e.*, the 8th July, 1885.

loan has been raised under section 4, may declare, by a notification published in the Calcutta Gazette, that the principal of such loan shall be repaid on a date to be specified in the notification, not being less than thirty years from the first publication of the notification, and may require the Commissioners to make such arrangements as shall provide to his satisfaction for such repayment; and the Commissioners shall make such provision and repayment accordingly.

Accountant General to advance sums for payment of interest on loans.

6. The Accountant General of Bengal shall from time to time advance to the Commissioners such moneys as may be required to meet the charges on account of interest upon any loan raised under section 4.

Sums advanced by the Accountant General to be repaid with interest.

7. The Commissioners shall repay all moneys so advanced by the Accountant General under the last foregoing section, at such times and in such manner as the Lieutenant-Governor may direct, with interest thereon at the rate of 4½ per centum per annum.

Power to borrow moneys from the Secretary of State.

8. It shall be lawful for the Commissioners from time to time to borrow moneys from the Secretary of State for India in Council for the purposes of this Act.

Moneys so borrowed how to be repaid.

9. All moneys so borrowed before the commencement of this Act shall bear interest at the rate of 4½ per centum per annum, and shall be repaid at such time and in such manner as the Lieutenant-Governor may direct.

Tolls, &c., to be levied.

10. The Commissioners shall from time to time frame a scale of tolls, dues and charges to be levied by them for the landing and shipment of goods at the docks constructed under this Act, and for the use of the said docks by sea-going or other vessels, and for the storing and keeping of any goods in any premises belonging to, or connected with, the said docks, and for the removal of such goods, and for the use of any moorings connected with such docks;

and also a scale of charges for any services to be performed by the Commissioners or their servants in respect of any vessels or goods, and for the use of any works or appliances provided by the Commissioners in connection with such docks.

Such tolls, dues and charges shall not exceed the rates which may from time to time be fixed by the Lieutenant-Governor by notification published in the Calcutta Gazette.

Such scale of tolls, dues and charges, when adopted by a resolution of the Commissioners at a meeting, shall be submitted to the Lieutenant-Governor; and it shall be lawful for the Commissioners to levy the same after publica-

tion of such scale or scales in the Calcutta Gazette with the sanction of the Lieutenant-Governor.

Application of tolls, &c., leviable, and property received under Act.

11. The said tolls, dues and charges, and all other money and property, leviable or received under this Act, shall be held and applied by the Commissioners for the purposes of this Act, and subject thereto for the purposes of Acts V of 1870[a] and IV of 1880[b] passed by the Lieutenant-Governor of Bengal in Council.

Power to make bye-laws.

12. It shall be lawful for the Commissioners from time to time to make bye-laws—

for the guidance of persons employed by them under this Act;

for the safe and convenient use of the said docks and the approaches thereto;

for regulating the entrance into and departure from the said docks of ships boats and vessels;

for the mode of levy and payment of tolls, dues and charges leviable under this Act,

and for otherwise carrying out the purposes of this Act;

and from time to time to repeal or alter any such bye-law so made by them.

Approval of bye-laws.

13. Such bye-laws, and such repeal or alteration of any bye-law, shall have the force of law upon the publication thereof in the Calcutta Gazette with the sanction of the Lieutenant-Governor.

Validation o acts already done.

14. All moneys borrowed, all expenditure incurred, all contracts made and all works undertaken by the Commissioners, before the commencement of this Act, for and in connection with the construction of the said docks, shall be deemed to have been borrowed, incurred, made and undertaken under this Act.

THE BENGAL LOCAL SELF-GOVERNMENT ACT OF 1885.

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SCHEDULE II.—EXTENT OF AMENDMENT OF BENGAL ACT IX OF 1880.
SCHEDULE III.—NAMES OF DISTRICTS IN EVERY SUBDIVISION OF WHICH A LOCAL BOARD SHALL BE ESTABLISHED.

ACT No. III OF 1885.

Received the Lieutenant-Governor's assent on the 6th April, 1885, and the Governor General's assent on the 11th July, 1885.

An Act to extend the System of Local Self-government in Bengal.

Preamble.

Whereas it is expedient to extend the system of local self-government within the territories subject to the Government of the Lieutenant-Governor of Bengal; It is enacted as follows:—

Preliminary.

Short title.

1. This Act may be called the Bengal Local Self-government Act of 1885.

Extent.

It shall extend to all the territories subject to the Lieutenant-Governor of Bengal which are not included within the limits of the town of Calcutta, or of the districts of Singbhoom, the Sonthal Pergunnahs or the Chittagong Hill Tracts, or of any place or town to which the provisions of the Bengal Municipal Act, 1884,[a] have been, or may hereafter be extended:

III of

Commencement.

and it shall come into force in any district[b] on such date as the Lieutenant-Governor may, by notification, direct.

Any notification, order or rule, and any appointment to an office, may be made, or election held, under this Act after it shall have received the assent of the Governor General, and shall take effect in any district on this Act coming into force therein.

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[a] See *supra*, p. 668.
[b] For list of districts in which the Act has been declared in force, see Appendix.

Enactments repealed and amended.

2. On this Act coming into force in any district, the enactment specified in the first and second schedules shall, as regards such district, be repealed to the extent mentioned in the third column of the first schedule, and be amended to the extent mentioned in the third column of the second schedule.

But this repeal shall not revive any office, authority or thing abolished by such enactment, or affect the validity of anything which has been done or suffered, or any right, title, obligation or liability which has accrued before the commencement of this Act.

Office held under repealed provisions of Ben. Act IX of 1880 to continue in existence until its abolition or confirmation by district board.

3. Every person holding office in any district under the repealed provisions of the Cess Act, 1880, shall continue to hold such office until it shall be abolished, or a new appointment made in respect thereof, by the district board established in such district under the provisions of this Act: Ben. IX of 1880.

Provided that, if for a period of twelve months from the date on which this Act comes into force in any district, the district board does not abolish such office or make such appointment as aforesaid, the person holding such office shall be deemed to have been appointed to it under the provisions of this Act:

Provided, further, that, if such office shall be abolished or a new appointment made in respect thereof, compensation pension or gratuity shall be paid from the district fund to any person not being a servant of the Government who may be deprived of such office, and the amount of such pension or gratuity shall be calculated in accordance with any rules made under the provisions of section 138 of the Cess Act, 1880[a]; or, if no such rules have been made, the amount shall be calculated in accordance with the rules regulating the payment of compensation pensions and gratuities to uncovenanted servants of the Government.

Act not to come into force in cantonments without sanction of Governor General in Council.

4. Notwithstanding anything in section 1, this Act shall not come into force in any cantonment without the sanction of the Governor General in Council previously obtained.

Interpretation.

5. In this Act, unless there be something repugnant in the subject or context,—

"Commissioner."

"Commissioner" means the Commissioner of a division:

"Local authority."

"local authority" means any district board or local board, joint committee, union committee or joint union committee constituted under this Act:

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[a] See *supra*, p. 582.

"municipal authority" means the commissioners of a municipality constituted under the provisions of the Bengal Municipal Act, 1884[a]: "Municipal authority."

Ben. III of 1884.

"notification" means a notification published in the Calcutta Gazette: "Notification."

"Magistrate of the district" includes any Magistrate subordinate to the Magistrate of the district, to whom he may delegate all or any of his powers under this Act: "Magistrate of the district."

the term "salaried servant of Government" does not include a retired servant of Government in receipt of a pension: "Salaried servant of Government."

"financial year" means the year commencing on the first day of April: "Financial year."

"cess year" means the year as fixed by the Lieutenant-Governor under the Cess Act of 1880.[b] "Cess year."

Ben IX of 1880.

PART I.

LOCAL AUTHORITIES.

CHAPTER I.

District Boards and Local Boards.

Constitution of District Boards and Local Boards.

6. The Lieutenant-Governor shall, by notification, establish a district board for every district. District boards and local boards.

The Lieutenant-Governor may, by notification, establish a local board in any subdivision or in any two or more subdivisions combined, and may cancel or vary any such notification:

Provided that a local board shall be established in every subdivision of every district mentioned in the third schedule of this Act, and in any other subdivision to which the provisions of the next succeeding Chapter shall have been extended.

A district board shall have authority, for the purposes of this Act, over the district for which it is established, and a local board shall have authority over such subdivision or subdivisions as the Lieutenant-Governor may, by notification, direct.

7. A district board shall consist of such number of members, not being less than nine, as the Lieutenant-Governor may, by notification, fix in this behalf, and may include elected and appointed members: Constitution of district boards.

Provided that, if there be no local board within a district, the whole of the district board shall consist of appointed members.

[a] See *supra*, p. 668. [b] See *supra*, p. 539.

When a local board has been established in any district, such local board shall be entitled to elect such proportion of the whole of the district board as the Lieutenant-Governor shall from time to time direct:

Provided that, when local boards have been established throughout the whole area of any district, not less than one-half of the whole district board (exclusive of the Chairman, if appointed under section 22) shall be elected by such local boards:

Provided also that no person shall be elected a member of the district board unless he be qualified for election as a member of some local board in the district under the provisions of section 13 of this Act.

The appointed members (if any) shall be such persons and officials as the Lieutenant-Governor shall from time to time, either by name or by official designation, appoint:

Provided that not more than one-half of the appointed members shall be salaried servants of the Government.

Constitution of local boards.

8. A local board shall consist of such number of members, not being less than six, as the Lieutenant-Governor may by notification fix in this behalf.

Lieutenant-Governor to make rules for qualification of persons entitled to vote for election of members of local boards.

9. Two-thirds of the members of each local board established in a district mentioned in the third schedule of this Act shall be elected under such rules, consistent with this Act, as the Lieutenant-Governor may make for each local board in respect of the qualifications required to entitle any person to vote for a candidate for election, and in respect of the time and mode of election:

Provided that every male person of the full age of twenty-one years resident within the area under the authority of a local board who is qualified in one of the manners following, that is to say:—

Qualification of electors.

(1) is a member of a union committee within such area;

(2) Has, during the year immediately preceding such election—

(*a*) paid a sum of not less than one rupee on account of road-cess in respect of lands situated either wholly or in part within such area;

(*b*) paid license-tax in respect of a trade, dealing or industry carried on within such area; or

(*c*) been possessed of a clear annual income from any source of not less than two hundred and forty rupees;

(3) being a member of a joint undivided family, one of the members of which is qualified for election as in this section hereinbefore provided, is a graduate or licentiate of any university, or holds a certificate as a pleader or mukhtar:

shall be entitled to vote at an election of members of such local board.

10. If within the time prescribed by the rules under the last preceding section the said proportion of such members is not elected, the Lieutenant-Governor may appoint the remainder.

Lieutenant-Governor may appoint remaining members if full proportion not elected within the prescribed time.

11. One-third of the members of each local board established in a district mentioned in the third schedule of this Act shall be appointed by the Lieutenant-Governor immediately after the result of the election mentioned in section 9 shall have been notified to him, and such appointment shall be deemed to have been made on the date on which such election takes place.

Appointment of members of local boards by Lieutenant-Governor to take effect on result of election.

12. In cases where the whole number of members is not evenly divisible by two or by three, the one-half or one-third, as the case may be, shall be ascertained by taking the number next below the whole number which is evenly divisible by two or by three as the number to be divided.

Proportionate number of members how to be ascertained if the whole number is not evenly divisible by two or by three.

13. The Lieutenant-Governor shall make rules, consistent with this Act, defining the qualifications of candidates for election as members of each local Board established in a district mentioned in the third schedule of this Act:

Qualification for election as members of local boards established in districts mentioned in schedule.

Provided that every male person, of the full age of twenty-one years, who is qualified in one of the manners following, that is to say:—

(1) is a member of a union committee within the area under the authority of such local board;

(2) has during the year immediately preceding such election had his fixed place of abode within the area under the authority of such local board; and

(*a*) paid a sum of not less than five rupees on account of road-cess in respect of land situated, either wholly or in part, within the area under the authority of such local board;

(*b*) paid a license-tax of not less than twenty rupees in respect of a trade, dealing or industry carried on within the area under the authority of such local board; or

(*c*) been possessed of a clear annual income from any source of not less than one thousand rupees;

(3) being a member of a joint undivided family, one of the members of which is qualified for election under clause (*1*) or clause (*2*) (*a*) or

(*b*) of this proviso, is a graduate or licentiate of any university, or holds a certificate as a pleader or mukhtar;

shall be deemed to be qualified for election as a member of such local board.

Lieutenant-Governor may add names of districts, not already included, to schedule.

14. It shall be lawful for the Lieutenant-Governor, by notification from time to time, to add the name of any district[a] to the list included in the third schedule of this Act.

From and after the date of such notification such district shall, for the purposes of this Act, be deemed to be a district mentioned in such schedule.

Construction of local boards in districts not mentioned in schedule.

15. The members of a local board, established in a district not mentioned in the third schedule of this Act, shall be appointed by the Lieutenant-Governor, either by name or by official designation:

Provided that not more than one-half of the whole number shall be salaried servants of the Government:

Provided, further, that the Lieutenant-Governor may, at any time in regard to any local board, direct that two-thirds of the members of such local board shall be elected under the provisions of sections 9, 10 and 13, and that one-third shall be appointed under the provisions of section 11.

Term of office of members of district board and local board.

16. A member of a district board or local board, when appointed by official designation, shall, unless and until the Lieutenant-Governor otherwise directs, continue to be a member of the board while he continues to hold the office to which such designation refers.

The term of office of all other members of a district board or a local board shall be fixed by the Lieutenant-Governor by rules made under this Act, which may provide for the retirement of members by rotation.

An outgoing member, if otherwise qualified, may be re-elected or re-appointed.

Resignation of members.

17. A member of a district board or local board may resign by notifying in writing his intention to do so, in the case of a member of a district board to the Lieutenant-Governor, and in the case of a member of a local board to the Commissioner, and on such resignation being accepted by the Lieutenant-Governor or Commissioner, respectively, the member shall be deemed to have vacated his office, and shall not be re-elected until the expiration of the term for which he would have held the office but for his resignation.

Powers of Lieutenant-Governor to remove members.

18. The Lieutenant-Governor may remove any member of a district board or local board—

(*a*) if he refuses to act, or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a

[a] The district of Mymensingh has been added to the list included in the third schedule—see notification dated 4th September, 1889, in Calcutta Gazette, 11th *idem*, Part IB, page 191.

Criminal Court to any such order, as, in the opinion of the Lieutenant-Governor, formed after due enquiry, unfits him to be a member;

(*b*) if he has been declared by notification to be disqualified for employment in the public service;

(*c*) if he, without an excuse, sufficient in the opinion of the Lieutenant-Governor, absents himself from six consecutive meetings of the board;

(*d*) when he is a salaried servant of the Government, if his continuance in office is, in the opinion of the Lieutenant-Governor, undesirable.

Filling of casual vacancies.

19. When the place of an elected member of a district board or local board becomes vacant by the resignation or removal of the member, or by his death, a new member shall be elected in accordance with the rules made by the Lieutenant-Governor under this Act to fill the place:

Provided that no act of the board or of its officers, or of the board in meeting, shall be deemed to be invalid by reason only that the number of the board, at the time of the performance of such act, was less than the prescribed number.

When the place of an appointed member of a district board or local board becomes vacant as aforesaid, the Lieutenant-Governor may, if he thinks fit, appoint a new member to fill the place.

A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but may be re-elected or re-appointed.

Incorporation of district boards.

20. Every district board shall be a body corporate by the name of "the district board of [*name of district*]," and shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and, subject to any rules made by the Lieutenant-Governor under this Act, to transfer any such property held by it, and to contract and do all other things necessary for the purposes of this Act, and may sue and be sued in its corporate name.

Time for district boards and local boards coming into existence.

21. The several district boards and local boards constituted under this Act shall come into existence at such time as the Lieutenant-Governor may by notification fix in this behalf.

Chairman and Vice-Chairman.

Chairman of

22. Every district board shall be presided over by a chairman who

district board.

shall be appointed by the Lieutenant-Governor, or, should the Lieutenant-Governor in any case so direct, be elected by the members of such board from among their own number, subject to his approval.

Vice-chairman of district board.

23. Every district board shall from time to time elect one of its members to be vice-chairman.

Term of office of chairman and vice-chairman of district board.

24. The term of office of an appointed chairman shall be one year from the date of his appointment, but he may be re-appointed on the expiration of such term. Every appointed chairman shall be deemed to be a member of the board during such term.

The term of office of an elected chairman or of a vice-chairman of a district board shall be the residue of his term of office as a member of the board.

Chairman of local board.

25. Every local board shall be presided over by a chairman who shall be elected by the members from among their own number, subject to approval by the Lieutenant-Governor; or the local board may, at a meeting attended by not less than two-thirds of its members, request the Lieutenant-Governor to appoint a chairman.

If the local board fails to elect such chairman as aforesaid within a period of one month from the time prescribed for such election by any rules made by the Lieutenant-Governor under this Act, or within such extended time as the Lieutenant-Govrnor may in his discretion allow for such election, the Lieutenant-Governor shall appoint such chairman.

The term of office of a chairman shall be the residue of his term of office as a member of the board.

Vice-chairman of local board.

26. Every local board shall from time to time elect one of its members to be vice-chairman. The term of office of a vice-chairman shall be the residue of his term of office as a member of the board.

Resignation of chairman and vice-chairman of district board or local board.

27. A chairman of a district board or local board may resign by notifying in writing his intention to do so to the Lieutenant-Governor, and on such resignation being accepted shall be deemed to have vacated his office. A vice-chairman of a district board or local board may resign by notifying in writing his intention to do so to the board, and on such resignation being accepted shall be deemed to have vacated his office.

Removal of chairman and vice-chairman of district board or local board.

28. The Lieutenant-Governor may remove any chairman of a district board or local board from his office if he refuses to act, or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as, in the opinion of the Lieutenant-Governor, formed after due enquiry, unfits him to be chairman,

or, on the application of the board, if he persistently neglects his duty as chairman.

A district board or local board may remove its vice-chairman from his office if he refuses to act, or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as, in the opinion of the board, formed after due enquiry, unfits him to be a vice-chairman, or if he persistently neglects his duty as vice-chairman.

Casual vacancies in office of chairman or of vice-chairman of district board or local board.

29. If a chairman of a district board dies, resigns, is removed or becomes incapable of acting, the Lieutenant-Governor may appoint a chairman, or may direct that a chairman be elected by the members of such board from among their own number, subject to his approval.

If a chairman of a local board, or a vice-chairman of a district board or local board, dies, resigns, is removed or becomes incapable of acting, the board shall, at a special meeting held for this purpose within the period prescribed by any rules made by the Lieutenant-Governor under this Act, elect one of its members to be chairman or vice-chairman, as the case may be.

A chairman or vice-chairman elected under this section to fill a casual vacancy shall hold office for the residue of his term as member of the board.

Joint Committees.

Joint committees.

30. A district board may join with any other district board or with any municipal or cantonment authority, or with more than one such board, or municipal or cantonment authority, in constituting out of their respective bodies a joint committee for any purpose in which they are jointly interested, and in delegating to any such joint committee any power which might be exercised by either or any of the boards or authorities concerned, and may from time to time frame rules as to the proceedings of any such joint committee, and as to the conduct of correspondence relating to the purpose for which the joint committee is constituted.

Conduct of Business.

Record and publication of proceedings.

31. Minutes of the proceedings at each meeting of a district board or local board shall be drawn up and recorded in a book to be kept for the purpose, and shall be signed by the chairman of the meeting, and shall be published in such manner as the Lieutenant-Governor may from time to time direct, and shall at all reasonable times and without charge be open to the

inspection of any person resident within, or owning or holding land within, the jurisdiction of such board.

Resolutions passed by district board or local board how to be treated.

A copy of every resolution passed by a district board at a meeting shall, within three days from the date of the meeting, be forwarded to the Magistrate of the district for transmission to the Commissioner.

A copy of every resolution passed by a local board at a meeting shall, within three days from the date of the meeting, be forwarded to the district board and to the Magistrate of the district.

Power to make rules as to business and affairs.

32. Every district board, and every local board with the sanction of the district board, may from time to time make rules as to—

(*a*) the time and place of its meetings, the business to be transacted at meetings and the manner in which notice of meetings shall be given;

(*b*) the conduct of proceedings at meetings, the due record of all dissents and discussions, and the adjournment of meetings;

(*c*) the custody of the common seal and the purposes for which it shall be used;

(*d*) the division of duties amongst its members;

(*e*) the powers to be exercised by the chairman or vice-chairman, or by sub-committees or members to whom particular duties are assigned;

(*f*) the persons by whom receipts shall be granted for money received under this Act;

(*g*) the duties, appointment, leave, suspension and removal of the officers and servants of the board; and

(*h*) other similar matters;

and may from time to time repeal or alter such rules.

Rules made under this section, consistent with this Act, shall be subject to the sanction of the Lieutenant-Governor, and shall, if sanctioned by him, be published in such manner as he may direct; and shall have the force of law so long as they are consistent with the rules made by him under this Act.

Establishments.

District board may appoint establishments and fix salaries.

33. Every district board, subject to the provisions hereinafter contained, may from time to time determine and appoint the establishment to be employed by it, or by any joint committee constituted under section 30, and may fix the salaries to be paid to such establishment:

Provided—

(1) that no appointment, the monthly salary of which amounts to one hundred rupees or more, shall be created or abolished without the approval of the Commissioner, and that every nomination to, and dismissal from, such an appointment shall be subject to confirmation by the Commissioner;

(2) that the aggregate salaries and allowances in any one financial year of the establishment employed by any district board for the purpose of heading (D) of Part III of this Act shall not, without the sanction of the Lieutenant-Governor, exceed twenty per centum on the total amount available for expenditure by such board upon public works during the financial year;

(3) that every district board shall conform to any rules made by the Lieutenant-Governor under this Act regarding the qualifications of candidates for employment.

Rules regarding leave of absence and absentee allowances to officers.

34. A district board may, subject to proviso (2) of the last preceding section, make, from time to time, with the approval of the Commissioner, rules as to leave of absence and absentee allowances for its establishment.

Pensions and gratuities to be paid out of district fund.

35. A district board may, from time to time, with the sanction of the Lieutenant-Governor, make rules for pensions and gratuities to be granted and paid out of the district fund to its establishment, and may, with the like sanction, repeal or alter such rules.

Union committee may appoint establishment and fix salaries.

36. Every union committee may from time to time determine and appoint the establishment to be employed by it, and may fix the salaries to be paid to such establishment:

Provided that no appointment, the monthly salary of which amounts to ten rupees or more, shall be created without the consent of the local board to which the union committee creating such appointment is subordinate.

CHAPTER II.

UNION COMMITTEES.

Operation of Chapter.

37. No provision contained in this Chapter shall apply to any district, or part of a district, unless and until it has been expressly extended thereto, by notification,* by the Lieutenant-Governor.

Formation of unions.

38. The Lieutenant-Governor may, by order in writing, constitute any village or group of villages into a union; and may prescribe for such union

* No notification has yet been issued.

the number of members of which the union committee shall consist. Such number shall not be less than five or more than nine.

It shall be lawful for the Lieutenant-Governor from time to time to vary or annul such order.

Election of members of union committees.

39. Save as is hereinafter provided, such number shall be elected from among the residents of the union, in accordance with rules made by the Lieutenant-Governor under this Act, and shall constitute the union committee of such union.

Appointment on failure to elect.

40. If the electors of any union fail to elect the full number of members prescribed for the committee of such union, the Commissioner may appoint the remainder.

Appointment in substitution of election.

41. Notwithstanding anything in this Act contained, it shall be lawful for the Lieutenant-Governor to direct, by order in writing, for reasons to be stated in such order, that any union committee shall consist, either wholly or in part, of members appointed by the Commissioner.

Term of office of members.

42. The term of office of the members of a union committee shall be two years from the date of their election or appointment, but shall include any period which may elapse between the expiration of the said two years and the date of the next subsequent election or appointment, not being an election or appointment under the next succeeding section.

At the expiration of such term such members may be re-elected or re-appointed.

Filling of casual vacancies.

43. When the place of an elected or appointed member of a union committee becomes vacant by the resignation or death of such member, a new member shall be elected or appointed, in the manner hereinbefore provided, and shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but may be re-elected or re-appointed:

Provided that no act of the committee or of its officers, or of the committee in meeting, shall be deemed to be invalid by reason only that the number of the committee at the time of the performance of such act was less than the prescribed number.

Joint union committees.

44. Any union committee may from time to time, with the consent of the local board to which it is subordinate, as hereinafter provided, join with any other union committee or committees in constituting out of their respective bodies a joint union committee for any purpose in which they are jointly interested, and in delegating to any such joint union committee any power which might be exercised by either or any of the union committees, and may

from time to time frame rules as to the proceedings of any such joint committee and as to the conduct of correspondence relating to the purpose for which the joint union committee is constituted.

It shall be lawful for the local board to associate not more than two of its members with any joint union committee constituted under this section.

PART II.

FINANCE.

GENERAL.

Lieutenant-Governor may direct that funds of existing local bodies shall be vested in new local authorities.

45. The Lieutenant-Governor may, by notification, direct that all or any portion of the funds vested in any local body existing in such district shall be vested in any local authority constituted under this Act, immediately upon such local authority being constituted.

CHAPTER I.

District board to fix rate of road-cess annually.

46. A district board, on or before the day prescribed in the rules made by the Lieutenant-Governor under this Act, shall hold a meeting for the purpose of fixing the rate at which the road-cess shall be levied in the district during the ensuing cess year:

Provided that the rate at which the road-cess is levied when this Act comes into force in such district shall not be reduced without the sanction of the Lieutenant-Governor.

Estimates, reports and statements of district board to be submitted to commissioner.

47. Every district board shall submit to the Magistrate of the district, for transmission to the Commissioner, on or before the day prescribed in the rules made by the Lieutenant-Governor under this Act,—

(1) a statement of the requirements and an estimate of the probable expenditure of the district board for the ensuing financial year,

(2) a report of its proceedings,

(3) an account of its receipts and expenditure for the past financial year,

and, from time to time,

such other reports and accounts as the Commissioner may require.

The Magistrate of the district, when he is not chairman of the board, shall, on or before the day prescribed in the rules made by the Lieutenant-

Governor under this Act, signify in writing to the board his approval or disapproval of the statement of requirements and estimate. When he disapproves of the statement of requirements and estimate on the ground that the expenditure on salaries, works or other objects proposed therein appears to be insufficient or excessive, or that any particulars contained therein appear to be erroneous, defective or improper, he shall state the nature of his objection. The board shall then consider his objection, and may modify the statement of requirements and estimate, or signify in writing its reasons for adhering to such statement and estimate; and the Magistrate of the district shall thereupon forward the statement of requirements and estimate to the Commissioner.

Power of Commissioner as to estimates.

48. The Commissioner may either approve of the estimate as it stands, or approve of it after making such alterations therein as may seem to him fit, or may cause it to be returned to the board for such modifications as he may think necessary, and, when such modifications have been made, the estimate shall be re-submitted for ratification to the Commissioner:

Provided that the Commissioner shall not make, and shall not require the district board to make, otherwise than with its own consent, any such alterations as may have the effect of raising the total of such estimate above the total of the sum estimated to be at the disposal of the district board for expenditure during the financial year.

Estimates may be amended or revised.

49. Any estimate prepared and approved as hereinbefore provided may, with the approval of the Commissioner, be amended or revised at any time by the district board.

District boards may raise loans and may form a sinking fund.

50. It shall be lawful for a district board, subject to the provisions of any law relating to the raising of loans by local authorities for the time being in force, from time to time to raise loans for the purpose of carrying out any of the provisions of this Act, and to guarantee the payment of interest on such loans, and to form a sinking fund.

Estimates and audit of accounts of local boards.

51. Every local board shall submit to the district board annually, on or before such date as the district board may appoint, a statement of the requirements and an estimate of the probable expenditure of the local board for the ensuing financial year, and shall submit, as often as the district board may require, accounts of its receipts and expenditure.

The district board may approve such estimate or may make such alterations therein as it thinks fit.

The district board shall make arrangements, subject to the approval of the Commissioner, for the examination and audit of accounts submitted to it under this section, and may direct the publication of such accounts.

CHAPTER II.

The District Fund.

52. There shall be formed for each district a fund to be called the "district fund," and there shall be placed to the credit thereof— Constitution of district fund.

(1) the balance of the district road fund of the district, after payment of the expenses mentioned in section 109 of the Cess Act, 1880,[a] as amended by this Act;

(2) all sums levied within the district as fines, penalties or otherwise under this Act;

(3) all sums accruing within the district, under the provisions of the Cattle-trespass Act, 1871,[b] from pounds which have not been transferred to any union committee under section 111 of this Act;

(4) all receipts in respect of public ferries within or on the boundary of the district which have been placed under the management of the district board under the provisions of the Bengal Ferries Act, 1885[c];

(5) all receipts in respect of any schools, hospitals, dispensaries, railways, tramways or other buildings, institutions or works, which may have been constructed by, vested in or placed under the control and administration of a district board under Part III of this Act;

(6) all sums which may be allotted to the district board from the provincial revenues by the Lieutenant-Governor for any of the purposes mentioned in Part III of this Act, or for any other purpose;

(7) all sums contributed to the district board by local bodies or private persons.

The district fund shall be vested in the district board, and the balance standing to the credit of the fund shall be kept in such custody as the Lieutenant-Governor from time to time directs. District fund to be vested in board.

53. The district fund shall be applicable to the following objects, and in the following order:— Application of district fund.

Firstly.—To the payment of any sums which the district board may be liable to pay as interest upon loans raised by it under section 50 for the purposes of this Act, and to the formation of a sinking fund, when required.

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[a] See *supra*, p 576. [b] See General Acts, 1867—76, 2nd Ed., p. 206.
[c] See Ben. Act I of 1885, s. 35, *supra*, p. 770.

Secondly.—To the payment of any sums which the district board may under this Act from time to time have undertaken to pay as interest on capital expended on any works which may directly improve the means of communication within the district or between such district and other districts.

Thirdly.—To the payment of such percentage as the Lieutenant-Governor may from time to time direct towards the cost of audit, and towards the cost of establishments in any office of account or in any treasury:

Provided that the total amount which any district board may be required to pay on this account shall not in any year exceed two per centum on the whole amount of the district fund for such year.

Fourthly.—To the payment of the salaries of the establishments employed by the district board for the purposes of this Act, and of any pensions and gratuities granted under section 3 and section 35, and to the payment to the Government of such percentage as the Lieutenant-Governor may, from time to time, direct on the salaries of such establishments in consideration of the Government undertaking to pay the leave and pension allowances of such establishments.

Fifthly.—To the payment of expenses incurred by the district board in the performance of the duties imposed by this Act, and in the construction, repair and maintenance of any works which may become vested in, or be placed under the control and administration of, such Board under Part III of this Act.

Sixthly.—To the payment, at such rates as the Lieutenant-Governor may direct, of the travelling expenses incurred by members of the district board in attending meetings of the board or meetings of a joint committee.

Seventhly.—To the payment of expenses incurred by the district board under section 80 of this Act.

Eighthly.—To investment in any local debenture loans issued by the Government of India or by any municipal authority or local authority, for the construction of public works which may directly improve the means of communication within the district or between such district and other districts:

Provided—

(1) that no sum shall be expended from the district fund in the construction of any channel for the purposes of irrigation;

or for the purposes of drainage connected with any irrigation-works in charge of public officers;

or for the improvement or maintenance of any water-channel on which tolls are levied, when no portion of the proceeds of such tolls is paid into the district fund;

(2) that no part of the district fund shall be applied to the construction, repair or maintenance of any road within any municipality which has been, or may hereafter be, constituted under the Bengal Municipal Act, 1884,[a] unless such road shall have been expressly excluded from the operation of the said Act under section 30 thereof.

Ben. III of 1884.

Accounts of district fund how to be kept and published.

54. Account-books of the district fund shall be kept by an officer to be appointed by the district board.

An account showing the receipts and expenditure during the quarter, arranged under the proper heads and duly balanced, shall be prepared immediately after the close of each quarter and published in such manner as the Lieutenant-Governor directs, and any person resident in or owning or holding land in the district may at all reasonable times inspect any such account without payment of a fee.

A similar account showing the income of the district fund under each head of receipt, the charges of establishment, the works undertaken, the sums expended on each work, and the balance, if any, of the fund remaining unspent at the end of the year, shall be prepared for each financial year as soon as possible after its close, and shall be open to inspection as aforesaid.

Finance committee.

55. Every district board shall appoint a finance committee consisting of so many members as it thinks fit.

Its duties.

It shall be the duty of such committee to prepare the statements, estimates and accounts required for submission under section 47, and generally to superintend all matters connected with the finances and accounts of the district board.

The finance committee shall at all times, when required so to do, produce its accounts for audit by any officer who may be appointed by the Lieutenant-Governor in that behalf.

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[a] See *supra*, p. 668.

CHAPTER III.

The Union Fund.

Constitution of union fund.

56. There shall be formed for each union a fund to be called the "union fund," and there shall be placed to the credit thereof—

(1) all sums accruing within the union under the Cattle-trespass Act, 1871;[a] I of 1871.

(2) all sums assigned thereto by the Lieutenant-Governor or district board, whether as a contribution towards the cost of making village-roads or otherwise;

(3) all other sums received by the union committee in the execution of this Act.

Union fund to be vested in union committee.

The union fund shall be vested in the union committee, and the balance standing to the credit of the fund shall be kept in such custody as the Lieutenant-Governor from time to time directs.

Application of union fund.

57. The union fund shall be applicable to the following objects, and in the following order :—

(1) to the payment of establishments employed, and expenses incurred, by the union committee for the purposes of this Act;

(2) to the payment of the expenses incurred by the union committee in respect of the duties imposed, and powers conferred, upon it under Part III of this Act, and of any expenses that may be incurred through its default in carrying out any of such duties.

Accounts of union fund how to be kept and published.

58. Account-books of the union fund shall be kept by an officer to be appointed by the union committee.

An account showing the receipts and expenditure during the quarter, arranged under the proper heads and duly balanced, shall be prepared immediately after the close of each quarter and published in such manner as the Lieutenant-Governor directs, and any person resident in or owning or holding land in the union may at all reasonable times inspect any such account without payment of a fee.

A similar account showing the income of the union fund under each head of receipt, the charges of establishment, the works undertaken, the sums expended on each work, and the balance, if any, of the fund remaining unspent at the end of the year, shall be prepared for each financial year as soon as possible after its close, and shall be open to inspection as aforesaid.

Copies of the quarterly and yearly accounts shall be submitted to the local board to which such union committee is subordinate.

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[a] See General Acts, 1867—76, 2nd Ed., p. 206.

PART III.

DUTIES AND POWERS OF LOCAL AUTHORITIES.

CHAPTER I.

Duties and Powers of District Boards.

Operation of provisions included under headings A to D.

59. The provisions included under the headings A to D (both inclusive) of this Chapter shall be in force as regards every district board, unless and until the Lieutenant-Governor shall otherwise direct.

Operation of provisions included under headings E to I.

60. No provision included under the headings E to I (both inclusive) of this Chapter shall apply to any district board, unless and until it has been expressly extended thereto by notification by the Lieutenant-Governor.

A.—Pounds.

Powers of district board in respect of pounds.

61. Every district board shall exercise such powers in regard to the establishment, maintenance and management of pounds as may be transferred to it by order notified under Act XVIII of 1883.[a]

B.—Education.

Primary and middle schools under public management.

62. Subject to any rules made by the Lieutenant-Governor under this Act, every district board shall be charged with, and be responsible for, the maintenance and management of all primary and middle schools under public management within the district, the construction and repair of all buildings connected therewith, the appointment (subject to the provisions of section 33) of all masters and assistant masters thereof, and the payment of the salaries of such masters and assistant masters:

Provided that nothing contained in this section shall be held to apply to schools for the education of Europeans and Eurasians.

Other schools.

63. Subject to any rules made by the Lieutenant-Governor under this Act, a district board may with its own consent be charged with, and made responsible for, the maintenance and management of any other schools or class of schools within the district.

High English schools.

64. It shall be lawful for the Lieutenant-Governor to declare that the maintenance and management of any High English school under public management, situated within a town which has been or may hereafter be constituted a municipality under the Bengal Municipal Act, 1884,[b] shall be entrusted to a joint committee, consisting partly of members delegated by the

Ben. III of 1884.

[a] See General Acts, 1882—84, p. 346.

[b] See *supra*, p. 668.

commissioners of such municipality and partly of members delegated by such district boards as may be named in the order.

Every order issued under this section shall specify the number of members to be delegated, and the proportion of the cost of maintenance of the school to be provided, by each of the local authorities and the municipal authority named therein.

Every joint committee appointed under this section shall, in respect of any such school, have the same powers and be subject to the same liabilities as are by this heading conferred and imposed on district boards.

Primary schools under private management.

65. It shall be lawful for the Lieutenant-Governor from time to time to transfer to a district board such funds as he may deem necessary for expenditure on the improvement of primary schools within the district under private management. And, subject to any rules made by the Lieutenant-Governor under this Act, the board shall be charged with, and be responsible for, the proper distribution of such funds.

C.—Medical.

District board to have control and administration of public charitable dispensaries or hospitals within the district.

66. It shall be lawful for the Lieutenant-Governor from time to time to direct by notification that any public charitable dispensary or hospital within a district shall be under the control and administration of the district board. And the district board shall thereupon be charged with the control and administration thereof, and the construction and repair of all buildings connected therewith.

The Lieutenant-Governor may at any time vary or annul any order made under this section.

District board may establish and maintain dispensaries and hospitals.

67. A district board may provide, for the use of the inhabitants of the district, dispensaries, hospitals or temporary places for the reception of the sick, and for that purpose may—

itself build such dispensaries, hospitals or places of reception; or

contract for the use of any such dispensary, hospital or place of reception, or of any part thereof; or

enter into any agreement with any person having the management of any hospital for the reception of the sick inhabitants of the district, on payment of such annual or other sum as may be agreed on.

Two or more district boards may combine to establish dispensaries and

68. Two or more district boards may, with the approval of the Commissioner or commissioners, combine in providing a common dispensary, hospital or place for the reception of the sick, and, with the like approval, fix the proportions of the cost thereof to be borne by them respectively.

(Part III.—Duties and Powers of Local Authorities. Chap. I.—Duties and Powers of District Boards. Secs. 69-74.)

69. A district board may, with the approval of the Commissioner, contribute such annual or other sum as may be agreed on towards the cost of the maintenance of any dispensary or hospital which is situated outside the district, but is habitually used by the inhabitants of the district.

District board may contribute to cost of maintenance of dispensary or hospital outside district.

70. A district board may, with the approval of the Commissioner, provide, or contract with any person to provide, a temporary supply of medicine and medical assistance for the poorer inhabitants of the district.

Power to provide temporary supply of medicine and medical assistance.

71. Every district board, in exercising powers vested in it by the five last preceding sections, shall conform to any rules made by the Lieutenant-Governor under this Act.

District board to conform to rules made by Lieutenant-Governor.

72. It shall be the duty of the district board to submit such returns of births and deaths as the Magistrate of the district may from time to time require in respect of all areas to which the provisions of Part I, Chapter II, have been extended.

District board to submit return of births and deaths to Magistrates.

D.—Public Works.

73. From and after the establishment of a district board in any district, all roads, bridges, channels, buildings and other property, moveable or immoveable, held by, or under the control and administration of, the district road committee or any branch committee in such district for the purposes of the Cess Act, 1880,[a] shall, for the purposes of this Act, be under the control and administration of such district board:

Ben. IX of 1880.

Transfer to district boards of roads and other property of district road committee.

Provided that all village-roads within the limits of any union established in the said district shall be under the control and administration of the union committee.

Village-roads excepted.

74. It shall be lawful for the Lieutenant-Governor from time to time to direct that any road, bridge, channel, building or other property, moveable or immoveable, which is vested in Government and which is situated within a district shall, with the consent of the district board of such district, and subject to such exceptions and conditions as the Lieutenant-Governor may make and impose, be placed under the control and administration of the district board for the purposes of this Act, and thereupon such road, bridge, channel, building or other property shall be under the control and administration of the

Government may place other property under district boards.

[a] See *supra*, p. 539.

district board, subject to all exceptions and conditions so made and imposed, and to all charges and liabilities affecting the same.

Works constructed by district board to be vested in it.

75. Every road, building or other work constructed by a district board from the district fund shall be vested in the district board by which it has been constructed.

District board may, with consent of owners, take over and repair works.

76. A district board may agree with the person in whom the property in any road, bridge, tank, ghât, well, channel or drain is vested to take over the property therein, and after such agreement may declare, by notice in writing put up thereon or near thereto, that such road, bridge, tank, ghât, well, channel or drain has been transferred to the district board.

Thereupon the property therein shall be vested in the district board, and such road, bridge, tank, ghât, well, channel or drain shall thenceforth be repaired and maintained out of the district fund.

District board to submit schedules of public works.

77. Every district board shall, at such times and in such form as the commissioner may direct, submit a schedule of all public works subject to the control of, or vested in, such district board.

District board to repair and maintain works.

78. It shall be the duty of every district board to provide for the repair and maintenance of roads, bridges, water-channels and other works for directly improving communications which have been taken charge of by the district board under this Act, or towards which it may have agreed to contribute; and for the construction of new roads, bridges, water-channels and other means of communication.

Miscellaneous improvements.

79. It shall be lawful for a district board to take measures for, or to contribute towards, the construction, repair and maintenance of any works which may directly improve the means of communication within the district or between the district and other districts;

the planting of trees by the roadside; and

the construction and maintenance of any means and appliances for improving the supply of drinking-water, or for providing or improving drainage.

District board may construct and maintain railways or tramways.

80. It shall be lawful for a district board, with the sanction of the Lieutenant-Governor, either singly or in combination with any municipal authority or any other local authority, to construct and maintain within, or partly within and partly without, its own district, a railway or tramway under the provisions of any law for governing the construction of railways or tramways[a] for the time being in force in Bengal, and to do all lawful acts which may be necessary in that behalf.

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[a] As to tramways, see Ben Act III of 1883, *supra*, p. 640.

81. It shall be lawful for a district board, with the sanction of the Lieutenant-Governor, to subscribe to any debenture loan raised by the Government of India or by any municipal authority or local authority for the construction or maintenance of any railway or tramway which, in the opinion of such district board, is likely to be of direct benefit to the district.

District board may subscribe to debenture loan to construct and maintain railways or tramways.

82. It shall be lawful for the district board, with the sanction of the Lieutenant-Governor, from time to time to guarantee the payment from the district fund of such sums as it shall think fit as interest on capital expended on any railways, tramways or other works which may directly improve the means of communication within the district or between the district and other districts.

District board may guarantee interest on capital expended on works of communication.

83. It shall be lawful for a district board from time to time to undertake on behalf of the Government, and upon such conditions as may be agreed upon, the construction, repair and maintenance of any public building or other work which is the property of the Government:

Provided that the cost of such construction, repair or maintenance shall be defrayed by the Government:

District boards may undertake construction, repair and maintenance of Governments buildings.

84. Subject to the provisions of section 33 and to any rules made by the Lieutenant-Governor under this Act, every district board shall appoint a properly qualified person to be its engineer, and such and so many subordinate officers under his orders as it may think necessary.

District board to appoint engineer and his subordinates.

85. It shall be the duty of the district engineer to prepare all plans, designs, specifications and estimates which the district board may require, to carry out such works as it may direct, and to conform generally to all rules that may be made by the district board under section 32 or by the Lieutenant-Governor under section 138.

Duties of district engineer.

86. The powers of the district board under sections 78 and 79 shall be subject to any rules made by the Lieutenant-Governor under this Act regarding the submission for approval of plans, designs, specifications and estimates.

Powers of boards under sections 78 and 79 to be subject to rules for approval of plans.

E.—Sanitation.

87. It shall be the duty of every district board, subject to any rules made by the Lieutenant-Governor under this Act, to provide, so far as may be possible, for the proper sanitation of its district, and to incur such expenses or undertake such liabilities as may be necessary in that behalf.

District board to provide for sanitation.

88. A district board may, with the approval of, and subject to such limits of cost as shall be imposed by, the Commissioner, provide any place within its

General powers for supplying

district with water.

district with a proper and sufficient supply of water, and for this purpose may—

(1) construct, repair and maintain water-works, wells or tanks, and do any other necessary acts;

(2) take on lease or hire any water-works and purchase any water-works, or any water, or right to take or convey water, either within or without its district; and

(3) contract with any person for a supply of water.

Public streams, channels, water-courses, tanks, reservoirs, springs and wells to be under control of district board.

89. All streams, channels, water-courses, tanks, reservoirs, springs and wells situated within the district, and not being private property or under the control of any officer of the Government, shall, for the purposes of this Act, be under the control and administration of the district board.

District board may set apart tanks, parts of rivers, streams or channels for drinking and culinary purposes.

90. The district board may, by an order duly published at such places and in such manner as it may deem fit, set apart convenient tanks, parts of rivers, streams or channels situated within the district, and not being private property or under the control of any officer of the Government, for the supply of water for drinking and for culinary purposes; and, from the date of publication of such order, such tanks, parts of rivers, streams or channels shall be held to be public springs or reservoirs

District board to appoint sanitary inspector.

91. It shall be lawful for a district board to appoint a properly qualified person to be its sanitary inspector, and, subject to the provisions of section 33, fix the salary of such sanitary inspector, and the details of the establishment subordinate to him.

F.—Vaccination.

District board to have supervision of vaccinators within their districts.

92. Every district board shall, within its district, be charged with the appointment, payment, management and supervision of all public vaccinators.

District board to appoint inspectors of vaccination.

93. Every district board shall appoint a properly qualified person to be inspector of vaccination within its district, and shall, subject to the provisions of section 33, fix the salary to be paid to such person.

Every inspector of vaccination appointed under this section shall, within the district, exercise the powers and perform the duties assigned to the Superintendent of Vaccination under the Bengal Vaccination Act, 1880.[a] Ben V of 1880.

[a] See *supra*, p 171

Ben. V of 1880.

94. In every district to which the Bengal Vaccination Act, 1880,[a] has been, or may hereafter be, extended, the district board shall have the powers of the Magistrate of the district under section 25 of the said Act.

District board to have powers of Magistrate in district to which the Vaccination Act extends.

95. The Commissioner may, with the sanction of the Lieutenant-Governor, make rules consistent with this Act, and with the Bengal Vaccination Act, 1880,[a] for the guidance of every district board in the exercise of the powers conferred under the three last preceding sections, and may from time to time, with the like sanction, repeal or alter such rules.

Commissioner to make rules for guidance of district boards.

96. The four last preceding sections, so far as is consistent with the tenor thereof, shall be read with, and form a part of, the Bengal Vaccination Act, 1880.[a]

Act to be read with the Bengal Vaccination Act.

G.—Census.

97. It shall be lawful for the Commissioner, with the sanction of the Lieutenant-Governor, at any time to require a district board to take an account of the number of persons who, at the time of taking such account, shall be within the district of such district board:

Commissioner may direct district board to take a census.

Provided that no part of the cost incurred in taking such account shall be charged upon, or be defrayed out of, the district fund.

98. Every district board which shall be required to take an account under the last preceding section shall, in taking such account, conform to any rules made by the Lieutenant-Governor under this Act, and to the provisions of any Act for the time being in force for regulating the taking of a census.

Powers for taking census.

H.—Famine-relief.

99. It shall be lawful for a district board, subject to such limit of expenditure as may be prescribed by the Commissioner, to take such measures as it thinks fit for the relief of famine within its district, and for that purpose to—

District board may take relief measures in case of famine.

(1) open and maintain such relief works as may be necessary;

(2) open and maintain such temporary hospitals, poor-houses, orphanages and places for the gratuitous distribution of food as may be necessary;

(3) employ such extra medical or other assistance as may be necessary.

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[a] See *supra*, p. 474.

I.—Miscellaneous.

Miscellaneous powers of district board.

100. It shall be lawful for a district board, with the approval of the Commissioner, and subject to any rules made by the Lieutenant-Governor under this Act, to—

Staging bungalows and sarais.

(1) establish and maintain, at such places within its district as it thinks fit, staging bungalows and sarais for the use of travellers, and charge such fees for the use of such bungalows and sarais as it thinks fit:

Provided that such fees shall in no case exceed the amount prescribed by the Commissioner;

Rewards for destruction of noxious animals.

(2) offer rewards, upon such scale as may be approved by the Commissioner, for the destruction of noxious animals within the district;

Fairs and exhibitions.

(3) hold, within its district, from time to time, fairs and exhibitions of cattle, country produce and agricultural implements, or local manufactures, and incur such expenditure and charge such fees in connection therewith as may, from time to time, be approved by the Commissioner;

Works not otherwise provided for.

(4) undertake and carry out any other local work likely to promote the health, comfort or convenience of the public, and not otherwise provided for by this Act.

CHAPTER II.

Duties and Powers of Local Boards.

Duties of local board.

101. The Lieutenant-Governor, or, subject to his control, a district board, may direct that, within the area subject to the authority of a local board, any matter placed under the control and administration of the district board under this Act shall be wholly or partly transferred to the control and administration of the local board, with adequate funds for the purposes of such control and administration.

A local board, as the agent of, and subject to the control of, the district board, shall, so far as the funds at its disposal permit, make due provision for all matters transferred to its control and administration under this section.

It shall be the duty of the district board to enforce the responsibility imposed on a local board by this section.

Limits on

102. Except as otherwise provided by this Act, a local board shall not

incur expenses, or undertake liabilities, to any amount exceeding the limit imposed by the district board. expenditure of local board.

103. A local board shall exercise powers of supervision and control over all union committees within the area under its authority, and it shall be the duty of the local board to procure and submit, in such form as the district board may prescribe, all such reports, returns and statistics as the district board may from time to time require. Local board to supervise and control union committees.

CHAPTER III.

Duties and Powers of Union Committees.

104. A union committee as the agent of, and subject to the control of, the local board shall, within the union, have the control and administration of, and be responsible for, all matters specified in this Chapter, except such of those matters as the local board may think fit to take under its direct control and administration. Union committee to subordinate to local board.

105. Every union committee shall submit annually to the local board, on or before such date as the local board may appoint, an estimate of the probable expenditure of the committee for the ensuing financial year, and an account of its receipts and expenditure for the past financial year, and shall also submit any other reports which the local board may from time to time require. Union committee to submit reports, estimates and accounts to local board.

106. A union committee shall not incur expenses, or undertake liabilities, to any amount exceeding the limit imposed by the local board. Limits on expenditure of union committee.

107. Every union committee shall, within such time as the local board may direct, forward to such local board a schedule of all village-roads within the union. Such schedule shall state the length and width of the roads, the number, description and dimensions of bridges, and such other particulars as the local board may require. Union committee to send schedule of roads to local boards.

108. All village-roads within a union, and the stones and other materials thereof, and also all erections, materials, implements and other things provided for such roads, shall be placed under the control and administration of the union committee. Village-roads placed under control and administration of union committee.

109. A union committee shall, so far as the union fund permits, from time to time cause the village-roads to be maintained and repaired, and may do all things necessary for such purpose, and may— Maintenance and repair of village-roads.

(*a*) lay out and make new village-roads;

(*b*) build and construct new bridges;

(*c*) turn, divert, discontinue or stop up any village-road; and

(*d*) widen, open, enlarge or otherwise improve any such road.

Local board may delegate management of portions of district roads to union committee.

110. The local board may, with the consent of a union committee, delegate to such committee the management of so much of any road under the management of the local board as may be situated within such union, and such union committee shall thereupon do all things necessary for the maintenance and repair of the portion of road so assigned to it, and shall be responsible to the local board in that behelf.

Powers of union committee in respect of pounds.

111. Every union committee shall exercise such powers in regard to the establishment, maintenance and management of pounds as may be transferred to it by order notified under Act XVIII of 1883.*

Primary schools.

112. Subject to any rules made by the Lieutenant-Governor under this Act, every union committee shall be charged with, and be responsible for, the maintenance and management of all primary schools within the union, the appointment (subject to section 36) of the gurus of such schools, and the transmission to such gurus of any rewards that may be granted by the district board or local board.

Dispensaries.

113. Subject to any rules made by the Lieutenant-Governor under this Act, a union committee may, with its own consent, be charged with, and made responsible for, the maintenance, management and visiting of any dispensary within the union.

Registration of vital statistics.

114. Every union committee shall provide for the registration of births and deaths within the union, and shall submit such returns as the local board may direct.

Sanitation.

115. Every union committee shall provide, as far as possible, for the sanitation of the union, and shall make special arrangements for the sanitation of fairs and mêlas.

Drains and other conservancy works under control of union committee.

116. All drains and other conservancy-works within the union, which are not under the control of any other authority, shall be under the control of the union committee.

Local board may delegate execution of works of improvement to union committee.

117. The local board may, with the consent of a union committee, delegate to such committee the execution of any work of sanitation, drainage or water-supply affecting the union.

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* See General Acts, 1882—1884, p. 346.

118. A union committee may cleanse or repair any public tank, stream, well or drain within the union, and charge the cost of such cleansing or repairing, which shall in no case exceed a sum of one hundred rupees, to the union fund, or, if such fund be not sufficient, may levy such cost from persons resident within the union in the manner provided for the levying of the chaukidari-tax under the Bengal Village Chaukidari Acts of 1870[a] and 1871,[b] or any other Act for the time being in force.

Union committee may cleanse or repair public tanks.

Ben. VI of 1870.
Ben. I of 1871.

119. Any public tank, stream or well which the union committee may have cleansed or repaired under the last preceding section shall remain under the control and administration of the union committee; and the union committee may, by an order duly published in the village or villages in which such public tank, stream or well is situated, set apart the same for the supply of water for drinking and culinary purposes.

Tanks, streams or wells so cleansed or repaired to remain under control of union committees.

PART IV.

CONTROL.

120. It shall be the duty of the Lieutenant-Governor and of all Commissioners and Magistrates of districts, acting under the orders of the Lieutenant-Governor, to see that the proceedings of local authorities are in conformity with law and with the rules in force thereunder. The Lieutenant-Governor may, by order in writing, annul any proceeding which he considers not to be in conformity with law and with the said rules, and may do all things necessary to secure such conformity.

Powers of Lieutenant-Governor and of Commissioners and of Magistrates of districts with respect to proceedings of local authorities.

121. Every local authority shall at all times permit the Commissioner or the Magistrate of the district to have access to all its books, proceedings and records.

Records to be open for inspection of Commissioner or of Magistrate of district.

122. The Commissioner or the Magistrate of the district shall have power at all times to enter on and inspect, or cause to be entered on and inspected, any immoveable property occupied by, or any work in progress under the orders of, or any institution controlled by, a local authority.

Power of Commissioner or of Magistrate to inspect works.

123. It shall be lawful for the Lieutenant-Governor to appoint an officer to be inspector of local works in each Commissioner's division, or in more than one such division, and to sanction an establishment for such officer.

Appointment of inspector of local works, and duties to be performed by him.

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[a] See *supra*, p. 153. [b] See *supra*, p. 169.

It shall be the duty of the inspector of local works to inspect and advise with regard to all public works under construction or repair vested in, or in charge of, any local authority within the division.

The inspector of local works shall also perform such duties and exercise such powers as may be assigned to him by any rules made by the Lieutenant-Governor under this Act.

The inspector of local works may at all times enter upon, or cause to be entered upon, any immoveable property belonging to any local authority in the division, or any work in progress under its direction, and may require it to furnish such statements, estimates and reports as he thinks fit. A report of every inspection shall be prepared and a copy thereof forwarded to the district board concerned, through the Magistrate of the district.

In all matters of professional detail the local authority shall be guided by the report of the inspector of local works.

Power to suspend action of local authorities by Magistrate of district and Commissioner.

124. The Magistrate of the district, or the Commissioner, may, by order in writing, suspend the execution of any order or resolution of a local authority within the jurisdiction of such Magistrate or Commissioner, or the doing of any act which is about to be done, or is being done, by such local authority, if in his opinion the execution of the resolution or order, or the doing of the act, is likely to cause injury or annoyance to the public, or to any class or body of persons, or to lead to a breach of the peace.

Power to provide for performance of duties in case of default by district board.

125. When the Commissioner is informed, on complaint made or otherwise, that a district board has made default in performing any duty imposed on it by or under this Act, the Commissioner, if satisfied, after due enquiry, that such district board has made default as alleged, may, by order in writing, fix a period for the performance of that duty.

If that duty is not performed within the period so fixed, the Commissioner may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the district board.

If the expense and remuneration are not so paid, the Commissioner may make an order directing the person having the custody of the balance of the district fund to pay the expense and remuneration, or as much thereof as is possible, from that balance: and such person shall make payment accordingly.

Extraordinary powers in case of emergency.

126. In case of emergency the Magistrate of the district may provide for the execution of any work, or the doing of any act, which a local authority is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable

remuneration to the person appointed to execute or do it, shall be forthwith paid by the district board.

If the expense and remuneration are not so paid, the Magistrate may make an order directing the person having the custody of the balance of the district fund to pay the expense and remuneration, or as much thereof as is possible, from that balance; and such person shall make payment accordingly.

Magistrate's order under sections 124 and 126 to be reported to Commissioner, who may confirm, modify or rescind it.

127. When the Magistrate of the district makes any order under sections 124 or 126 he shall forthwith submit to the Commissioner a copy of the order, with a statement of his reasons for making it, and with any explanation which the local authority concerned may wish to offer, and the Commissioner may thereupon confirm, modify or rescind the order.

Commissioner's proceedings to be submitted to Lieutenant-Governor for final orders.

128. In every case under the last preceding section in which the Commissioner confirms or modifies any order, he shall forthwith submit to the Lieutenant-Governor a copy of the proceedings, and the Lieutenant-Governor may thereupon confirm, modify or rescind the order of the Commissioner.

Commissioner's orders under sections 124 and 125 to be submitted to Lieutenant-Governor.

129. When the Commissioner makes any order under sections 124 or 125 he shall forthwith submit to the Lieutenant-Governor a copy of the order, with a statement of his reasons for making it, and with any explanation which the local authority concerned may wish to offer, and the Lieutenant-Governor may thereupon confirm, modify or rescind the order.

Powers and duties of Commissioner and Magistrate of district transferred to district board and local board.

130. All powers conferred upon Commissioners and Magistrates of districts in regard to district boards by sections 124 and 126 shall be exercised in respect of a union committee by the local board, and in respect of a local board by the district board.

When a local board makes any order under this section it shall forthwith submit to the district board a copy of the order with a statement of its reasons for making it, and with any explanation which the union committee concerned may wish to offer. The district board may thereupon confirm, modify or rescind the order.

When a district board makes any order under this section it shall forthwith submit to the Magistrate of the district, for submission to the Commissioner, a copy of the order, with a statement of its reasons for making it, and with any explanation which the local board may wish to offer. If the Commissioner is dissatisfied with the order, he may report the matter to the Lieutenant-Governor, who may thereupon confirm, modify or rescind the order.

Power of Lieutenant-

131. If a district board or local board is not competent to perform or

Governor to supersede district board or local board in case of incompetency or wilful neglect of duty.

persistently makes default in the performance of the duties imposed on it by or under this or any other Act, or exceeds or abuses its powers, the Lieutenant-Governor may, by notification, specifying the reason for so doing, supersede such district board or local board for a period to be specified in such notification.

Consequences of supersession.

132. When a district board or local board is superseded under the last preceding section, the following consequences shall ensue:—

(*a*) all members constituting the district board or local board shall from the date of the notification vacate their offices as such members;

(*b*) all powers and duties of the district board or local board may, until such district board or local board is reconstituted, be exercised and performed by such person or persons as the Lieutenant Governor may from time to time appoint in that behalf;

(*c*) when a district board is superseded, all property vested in it shall pending the reconstitution of the board, be vested in the Lieutenant-Governor.

On the expiration of the period of supersession specified in the notification, the board shall be re-established, and the persons who vacated their offices under clause (*a*) shall be eligible for appointment or election.

Nevertheless it shall be lawful for the Lieutenant-Governor to direct that a local board re-established under this section shall consist entirely of appointed members, although such local board may have been established in a district mentioned in the third schedule of this Act.

Disputes between two or more union committees to be referred to local board.

133. If a dispute arises between two or more union committees within the area under the authority of a local board, the matter shall be referred to the local board, and the decision of such local board upon the matter so referred shall be final and binding.

Disputes between two or more union committees under the authority of different local boards to be referred to district board when local boards cannot agree.

134. If a dispute arises between two or more union committees within the areas under the authority of different local boards, the matter shall be referred to the local boards, and, if the local boards cannot agree, to the district board; and the decision of such local boards or district board, as the case may be, upon the matter so referred, shall be final and binding.

Disputes between two or more local boards to be referred to district board.

135. If a dispute arises between two or more local boards within the area under the authority of a district board, the matter shall be referred to the district board, and the decision of such district board upon the matter so referred shall be final and binding.

136. If a dispute arises between a municipal authority or authorities and a local authority or authorities within the same district, the matter shall be referred to the Magistrate of the district, and the decision of the Magistrate upon the matter so referred shall be final and binding:

Disputes between municipal authorities and local authorities in the same district to be referred to Magistrate of district.

Provided that, if the Magistrate is a member of one of the authorities concerned, his functions under this section shall be discharged by the Commissioner.

137. If any dispute, for the decision of which this Act does not otherwise provide, arises between two or more local authoritities, or between a local authority or authorities, and a municipal authority or authorities, the matter shall be referred—

Decision of disputes not otherwise provided for.

(*a*) to the Commissioner or Commissioners of the division or divisions, if the local authorities concerned are in different districts; and

(*b*) to the Lieutenant-Governor if the local authorities concerned are in different divisions and the Commissioners of those divisions cannot agree.

And the decision of the Commissioner or Commissioners, or of the Lieutenant-Governor, as the case may be, upon the matter so referred shall be final and binding.

138. It shall be lawful for the Lieutenant-Governor to make rules, consistent with this Act, for any district board or local board or union committee for the purposes of—

Power of Lieutenant-Governor to make rules.

(*a*) determining the mode and time of appointment or election of members of boards and committees, the term of office, and the qualifications and disqualifications of such members, and the qualifications and disqualifications and the registration of voters and candidates, and generally for regulating all elections under this Act;

(*b*) regulating the conduct of proceedings of boards and committees, including the manner in which the notices of a meeting shall be given, the fixing of a quorum, the due record of proceedings and the language in which business shall be transacted;

(*c*) fixing the time within which a chairman or vice-chairman may be elected;

(*d*) regulating the powers of district boards to transfer property;

(*e*) regulating the powers of boards and committees to contract and do other things necessary for the purposes of their constitution and the mode of executing contracts;

(*f*) determining the immediate offices, if any, through which correspondence between boards and committees, or members of boards and

committees, and the Lieutenant-Governor or his officers, shall pass;

(*g*) prescribing the qualifications of candidates for employment under section 33;

(*h*) prescribing the times for holding meetings and for submitting statements, estimates, reports or accounts, under sections 46 and 47;

(*i*) prescribing forms for statements, estimates and accounts and regulating the keeping, checking and publication of such accounts and the manner of periodical audit under sections 54 and 55;

(*j*) regulating the maintenance and management of schools under sections 62, 63 and 64, the construction and repair of buildings connected therewith, and the appointment of masters and assistant masters, and the proper distribution of funds transferred to district boards under section 65;

(*k*) regulating the control and administration of dispensaries, hospitals and places of reception for the sick, the construction and repair of buildings connected therewith, and the supply of medicines and medical assistance for the poorer inhabitants of the district;

(*l*) prescribing the procedure to be adopted in the appointment of the engineer to the district board under section 84, and regulating the performance and exercise of the duties and powers of such engineer and of the inspector of local works under sections 85 and 123, respectively;

(*m*) regulating the submission for approval of plans, designs, specifications and estimates under section 86;

(*n*) regulating the duties and powers of district boards in regard to sanitation;

(*o*) regulating the duties of district boards in regard to taking a census;

(*p*) regulating the establishment and maintenance of staging bungalows and serais, the holding of fairs and exhibitions, the offer of rewards for the destruction of noxious animals, and the carrying out of any other work likely to promote the health, comfort or convenience of the public;

(*q*) regulating the powers of union committees in regard to primary schools and dispensaries under sections 112 and 113;

(*r*) providing for the appointment and payment of auditors of the accounts of boards and committees;

(*s*) affording guidance to district boards when suits or other proceedings

are threatened or have been instituted by or against them in Civil Courts; and

(*t*) generally determining the relations between district boards, local boards and union committees, and for the guidance of boards and committees and Government officers in all matters connected with the carrying out of the provisions of this Act;

and may from time to time repeal or alter such rules.

Rules made under this section shall be published in such manner as the Lieutenant-Governor may direct, and shall thereupon have the force of law;

and no rules under clause (*a*) shall come into operation until three months after they have been published as aforesaid.

Bye-laws.

Power of district board and local board to make bye-laws.

139. Every district board or local board, empowered in this behalf by the Lieutenant-Governor, may make bye-laws for carrying out all or any of the purposes of this Act.

Bye-laws made under this section shall have the force of law when confirmed by the Lieutenant-Governor and published in such manner and for such time as the Lieutenant-Governor may direct.

Penalty for infringement of bye-laws.

140. In making a bye-law under the last preceding section a board may provide that a breach of the same shall be punished with fine which may extend to fifty rupees, and in the case of a continuing breach with a further fine which may extend to five rupees for every day during which the breach is continued after the offender has been convicted of such breach.

Prosecutions.

141. Prosecutions under this Act for breach of bye-laws may be instituted by any board, or by any person authorized by the board in this behalf.

A Judge or Magistrate shall not be deemed to be, within the meaning of section 555 of the Code of Criminal Procedure,[a] a party to, or personally interested in, any case under this section merely because he is a member of the board.

X of 1882.

Miscellaneous Provisions.

Liability of members of boards and union committees.

142. No person shall be liable for the loss, waste or misapplication of any money or other property belonging to the district board or union committee, unless such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of a union committee, local board or district board, and a suit for compensation for the same may be instituted against him, in such Court as the Lieutenant-Governor directs, by the district

[a] See General Acts, 1882 (Part I), p. 397.

board with the sanction of the Lieutenant-Governor or by the Secretary of State for India in Council.

Procedure for making rules and bye-laws.

143. The Lieutenant-Governor, before making any rules under section 138, and a district board or local board, before making any bye-laws under section 139, shall publish, in such manner as the Lieutenant-Governor deems sufficient for giving information to persons interested, the proposed rules or bye-laws, together with a notice specifying a date on or after which the same will be taken into consideration; and shall, before making such rules or bye-laws, receive and consider any objection or suggestion which may be made by any person with respect to the same before the date so specified.

Every such rule or bye-law shall be published in the Calcutta Gazette in English and in such other language as the Lieutenant-Governor directs, and such publication shall be evidence that the rule or bye-law has been made as required by this section.

Penalty on member, officer or servant being interested in contracts made with a local authority.

144. If any member of a local authority, or any officer or servant maintained by or employed under a local authority, has, directly or indirectly, any share or interest in any work done by order of the local authority of which he is a member, or by which he is maintained, or under which he is employed, or in any contract with or under such local authority, he shall be liable on conviction before a Criminal Court to a fine which may extend to five hundred rupees:

Provided that the penalty herein prescribed shall not be deemed to apply by reason only of a person—

(*a*) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the local authority; or

(*b*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the local authority may be inserted; or

(*c*) holding a debenture or being otherwise concerned in any loan raised by, or on behalf of, the local authority.

Nevertheless it shall not be lawful for a person having any share or interest, such as is described in clauses (*a*) and (*b*), to act as a member of the local authority in any matter relating to a contract or agreement between the local authority and such company or the manager or publisher of such newspaper.

Power to make compensation out of the local fund.

145. Every local authority may make compensation out of the district or union funds respectively to any person sustaining any damage by reason of the exercise of any of the powers conferred by this Act.

146. No suit shall be brought against the members of any district board, local board or union committee, or any of their officers, or any person acting under their direction, for anything done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of such board or committee, and also (if the suit is intended to be brought against any officer of the said board or committee, or any person acting under their direction) at the place of abode of the person against whom such suit is intended to be brought, stating the cause of action and the name and place of abode of the person who intends to bring the suit;

No action to be brought against the members of boards and committees or their officers until after one month's notice of cause of action.

and, unless such notice be proved, the Court shall find for the defendant.

Every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards.

If any such person to whom any such notice is given shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

THE FIRST SCHEDULE.

(*See section 2.*)

REPEAL OF ENACTMENT.

Number and year.	Subject.	Extent of repeal.
Bengal Act IX of 1880.	To amend and consolidate the law relating to rating for the construction, charges and maintenance of district communications and works of public utility and of provincial public works.	Sections 110 to 181, both inclusive. Section 182, clauses (*a*), (*b*), (*c*), (*e*), (*g*) and (*h*).

THE SECOND SCHEDULE.

(*See section 2.*)

AMENDMENT OF ENACTMENT.

Number and year.	Subject.	Extent of amendment.	
Bengal Act IX of 1880.	To amend and consolidate the law relating to rating for the construction, charges and maintenance of district communications and works of public utility and of provincial public works.	In section 4 the following definitions shall be substituted for the definition of "the committee":—	
		"'District board' means the board constituted under the provisions of the Bengal Local Self-government Act of 1885.	District board.
		"'District fund' means the fund formed under section 52 of the Bengal Local Self-government Act of 1885."	District fund.
		In section 9 the words "and, together with other assets of such fund, shall be applied to the purposes mentioned in section 111" shall be omitted.	
		The following section shall be substituted for section 38:—	
		"The road cess for each year shall be assessed and levied in each district as provided in section 6, and (subject to the maximum rate in that section mentioned) at such rate as may be determined for such year by the district board."	Rate at which road cess shall be levied how to be fixed.
		In section 40 omit the words "as provided in section 155".	
		In sections 82 and 83 the words "district road funds" and "district road fund" shall be substituted for the words "committees" and "committee" respectively.	
		In section 98 the words "district road fund" shall be substituted for the words "district road committee".	
		In section 108 the words "and of all sums whatsoever which may be at the disposal of the district road committee as hereinafter appointed" shall be omitted.	
		The following new section shall be substituted for section 109:—	
		"The district road fund of every district shall be applicable to the following objects and in the following order:—	Application of district road fund.
		Firstly.—To the payment of the cost of establishments entertained and expenses incurred by the Collector under section 91.	
		Secondly.—To the indemnification of the Collector, with the sanction of the Commissioner, for any other costs or damages which he may have incurred, or for which he may have become liable, in the course of the proceedings for the assessment and collection of the cesses under this Act.	
		And the balance, after payment of such expenses, shall be credited to the district fund of the district."	

THE THIRD SCHEDULE.

(*See sections 6 and 9.*)

Districts in every Sub-division of which a Local Board shall be established.

DISTRICT.	DISTRICT.
24-Pergunnahs.	Midnapore.
Nuddea.	Bankoora.
Moorshedabad.	Beerbhoom.
Jessore.	Dacca.
Khoolna.	Furreedpore.
Hooghly.	Rajshahye.
Howrah.	Pubna.
Burdwan.	Patna.

ACT No. I OF 1886.

Received the Lieutenant-Governor's assent on the 10th April, 1886, and the Governor-General's assent on the 24th May, 1886.

An Act to further amend the Village-chaukidári Act, 1870.

Ben. VI of 1870.

WHEREAS it is expedient to further amend the Village-chaukidári Act, 1870; It is enacted as follows:— Preamble.

PRELIMINARY.

1. This Act shall be read with, and taken as part of, Bengal Act VI of 1870[a] as amended by Bengal Act I of 1871. Extent.

And it shall come into force in all districts to which Bengal Act VI of 1870[a] as amended by Bengal Act I of 1871 has been extended from the date[b] on which it may be published in the Calcutta Gazette with the assent of the Governor General. Commencement.

2. For section 3 the following shall be substituted:— New section substituted for section 3.

(See *supra*, p. 154.)

3. For section 6 the following shall be substituted:— New section substituted for section 6.

(See *supra*, p. 155.)

4. In section 8, for the words "fifteen days" shall be substituted the words "thirty days", and for the words "two years" shall be substituted the words "three years". Amendment of section 8.

[a] See *supra*, p. 153. [b] *i.e.*, the 2nd June, 1886.

New section substituted for section 9.

5. For section 9 the following shall be substituted :—

(See *supra*, p. 156.)

New sections to follow section 9.

6. After section 9 the following shall be inserted :—

(See *supra*, p. 156.)

Amendment of section 22.

7. In section 22, for the words "six per cent." shall be substituted the words "ten per cent.".

Amendment of section 39.

8. To section 39 the following shall be added :—

(See *supra*, p. 161.)

Amendment of section 41.

9. In section 41, after the words "such member shall himself report the same" and before the words "to such officer" shall be inserted the following :—

"or cause the same to be reported".

New section substituted for section 43.

10. For section 43 the following shall be substituted :—

(See *supra*, p. 162.)

New section substituted for section 44.

11. For section 44 the following shall be substituted :—

(See *supra*, p. 162.)

Amendment of section 45.

12. In section 45 for the words "shall issue his warrant" shall be substituted the words "may issue his warrant", and at the end of the section the following shall be added :—

(See *supra*, p. 162.)

New sections to follow section 46.

13. After section 46 the following shall be inserted :—

(See *supra*, pp. 162, 163.)

ACT No. II OF 1886.

Received the Lieutenant-Governor's assent on the 29th March, 1886, and the Governor General's assent on the 28th May, 1886.

An Act to amend Act II (B.C.) of 1866, and the Calcutta Police Act, 1866.

Preamble.

WHEREAS it is expedient to amend Bengal Act II of 1866 and the Calcutta Police Act, 1866; It is enacted as follows :— Ben. IV of 1866.

Commencement of Act.

1. This Act shall come into force from the date[a] on which it may be published in the Calcutta Gazette with the assent of the Governor General.

New section substituted for section 41, Ben. Act II of 1866, and section 68, Ben. Act IV of 1866.

2. For section 41 of Bengal Act II of 1866, and for section 68 of the Calcutta Police Act, 1866, the following shall be substituted :— Ben. IV of 1866.

(See *supra*, pp. 57, 74.)

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[a] *i.e.*, the 9th June, 1886.

en. IV of 866.

3. After section 68 of the said Calcutta Police Act the following shall be added :— New section to follow section 68 of Ben. Act IV of 1866.

(See *supra*, p. 75.)

4. After section 72 of the said Calcutta Police Act the following words shall be added :— Amendment of section 72 of Ben. Act IV of 1866.

(See *supra*, p. 75.)

ACT No. III OF 1886[a].

Received the Lieutenant-Governor's assent on the 24th September, 1886, and the Governor General's assent on the 1st October, 1886.

An Act to amend Act III (B.C.) of 1884.

WHEREAS it is expedient to amend Bengal Act III of 1884 ; It is enacted as follows :— Preamble.

1. This Act shall come into force from the date[b] on which it may be published in the Calcutta Gazette with the assent of the Governor General. Commencement of Act.

2. For section 251 of Bengal Act III of 1884 the following shall be substituted :— New section substituted for section 251 of Ben. Act III of 1884.

(See *supra*, p. 727.)

3. After section 251 of Bengal Act III of 1884 the following sections shall be inserted :— New sections to follow section 251 of Ben. Act III of 1884.

(See *supra*, pp. 727, 728.)

ACT No. I OF 1887.

Received the Lieutenant-Governor's assent on the 15th January, 1887, and the Governor General's assent on the 31st idem.

An Act to provide for a Survey of the Town of Calcutta.

WHEREAS it is expedient to provide for the survey and demarcation of land in the Town of Calcutta ; It is hereby enacted as follows :— Preamble.

1. This Act shall be called the Calcutta Survey Act, 1887, and shall come into force from the date[c] on which it may be published in the Calcutta Gazette with the assent of the Governor General. Commencement.

It extends to the Town of Calcutta within the local limits of the ordinary Local extent.

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[a] Ben. Act III of 1886 has been repealed so far as it amended Ben. Act IV of 1876, and the references to the latter Act have therefore been omitted—see Ben. Act II of 1888, s. 2, and Sch. I, *infra*.

[b] *i.e.*, the 6th October, 1886.

[c] *i.e.*, the 2nd February, 1887.

original civil jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal.

Interpretation-clause.

2. In this Act, unless there be something repugnant in the subject or context,—

"Survey."

"survey" includes identification of boundaries and all other operations antecedent to, or connected with, survey:

"Superintendent."

"Superintendent" means the Superintendent of Survey under this Act:

"Land."

"land" includes anything attached to the earth or permanently fastened to anything attached to the earth:

"Premises."

"premises" means any land described as such in the registers of the Corporation of the Town of Calcutta or as a holding in the registers of the Calcutta Collectorate:

"Owner."

"owner" includes—

(*a*) the person having permanent interest in any land or premises;

(*b*) an agent of, or manager on behalf of, such person;

(*c*) a trustee of such person;

(*d*) a body corporate in which land is vested by operation of Statute.

Local Government may order survey and appoint Superintendent.

3. The Local Government may, whenever it thinks fit, order, by a notification in the Calcutta Gazette, that a survey shall be made of the lands situated in the Town of Calcutta, and for such purpose may appoint a Superintendent of Survey, and one or more Assistant Superintendents of Survey. The Assistant Superintendents of Survey shall exercise such powers as may be delegated to them by the Superintendent.

Superintendent may enter upon land.

4. The Superintendent of Survey shall, for the purposes of this Act, have power, either by himself or by an Assistant Superintendent of Survey or by other officers employed in the survey, to enter, between the hours of sunrise and sunset, upon any land or premises within the local limits aforesaid, without being liable to any legal proceedings whatsoever on account of such entry, or of anything done on such land or premises in pursuance of this Act:

Provided that no such entry shall be made upon lands or premises which may be occupied at the time, unless with the consent of the occupier thereof, or without previously giving the said occupier twenty-four hours' notice of the intention to do so.

Superintendent to give notice before entering on land.

5. Before entering on any land or premises for the purposes of survey, the Superintendent may cause a notice in writing under his hand to be served on the owner of the land or premises about to be surveyed, and on the owners of conterminous lands or premises, calling upon them to attend either personally or by agent on such land or premises before him or before such officer as may be authorized by him in that behalf, within a specified time (which shall not be

less than three days after the service of such notice) for the purpose of pointing out boundaries, and of affording such information as may be needed for the purposes of this Act, and every person on whom such notice may be served shall be legally bound to attend as required by the notice, and to give any information which may be required so far as he may be able to give it.

Persons summoned failing to appear are bound by the survey.

6. If, after due service of notice under the last preceding section, any person fails to appear without showing sufficient cause to the satisfaction of the Superintendent, the Superintendent, or such officer as may be authorized by him, may proceed with the survey, and the person who is so absent shall be bound by the results of the survey in the same manner and to the same extent as if the survey were made in his presence.

In case of dispute Assistant Superintendent to hold an enquiry.

7. If in the course of survey it shall come to the notice of the Superintendent that a dispute exists as to any boundaries which should be surveyed, the Superintendent shall cause an enquiry to be held by an Assistant Superintendent, as hereinafter provided, for the purpose of determining such boundaries.

Procedure in case of dispute as to boundaries.

8. When any dispute exists as to any boundaries, the Assistant Superintendent who may be authorized by the Superintendent in this behalf shall cause a notice in writing under his hand to be served on the parties concerned requiring them to appear before him in person, or by an authorized agent on a specified day, and to produce evidence of possession of the land in dispute. The Assistant Superintendent shall, on the specified day, or on such other day to which the hearing may be adjourned, hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take such further evidence as he may think necessary, and, without reference to the merits of the claim of any of such parties to a right to possess the land in dispute, decide which of the parties is in possession of the said land at the time of the survey.

Power of Assistant Superintendent to enforce attendance of witnesses.

9. For the purposes of the enquiry aforesaid the Assistant Superintendent shall have power to summon and enforce the attendance of witnesses and compel the production of documents by the same means and in the same manner as if provided in the case of a Court under the Code of Civil Procedure.[a]

XIV of 1882.

After enquiry, Assistant Superintendent to record his decision.

10. After the enquiry has been completed, the Assistant Superintendent shall pass an order in writing, defining clearly the subject of dispute, and shall record his decision, and the reasons for such decision.

An appeal

11. An appeal shall lie from any order passed by an Assistant Superintend-

[a] See Act XIV of 1882, Chap. XIV, in General Acts, 1882-84, p. 73.

shall lie to the Board of Revenue.

ent under the last preceding section to the Board of Revenue, or to such other authority as the Local Government may, by notification in the Calcutta Gazette, appoint in this behalf, if preferred within thirty days from the date of such order.

Power to refer to arbitration.

12. In every case of disputed boundaries the Assistant Superintendent authorized to hold the enquiry may, on the written application of the parties, refer the dispute to one or more arbitrators nominated by the parties respectively, and shall fix such time, and allow such extension of time, as may seem reasonable for the delivery of the award:

Provided that, if it appears to the Assistant Superintendent that the Local Government or the Corporation of Calcutta is interested in any such dispute, he shall appoint, in the former case, the Collector or Deputy Collector of Calcutta, and, in the latter case, the Chairman, Vice-Chairman or Surveyor of the Corporation, one of the arbitrators, unless the parties agree to such officer being appointed sole arbitrator.

On failure of an arbitrator to act, another may be appointed.

13. Where an arbitrator nominated by a party refuses to act or becomes incapable of acting by reason of death or other sufficient cause, the party by whom he was nominated may, by a written application to the Assistant Superintendent, nominate another arbitrator, and, on being satisfied that the application has been made on sufficient grounds, he shall confirm such nomination, and the arbitrator so appointed may thereupon proceed with the enquiry.

Appointment of an umpire.

14. If the arbitrators differ, the award shall be in accordance with the opinion of the majority; if they are equally divided in opinion, it shall be competent to them or to the Assistant Superintendent, on the written application of the arbitrators or of the parties to the arbitration, to appoint an umpire, and the decision of the umpire determining the boundaries in dispute shall have the force of an award of the arbitrators.

Power to enforce attendance of witnesses in an arbitration.

15. The Assistant Superintendent shall, on the application of the arbitrators or umpire, issue the same processes to parties and witnesses as he may issue in enquiries held by himself.

On failure to make an award, Assistant Superintendent may supersede the arbitration.

16. If the arbitrators or the umpire appointed under the preceding sections fail to deliver the award within the time allowed by the Assistant Superintendent, he may make an order superseding the arbitration, and in such case he shall proceed with the enquiry.

The award.

17. The award shall be made in writing, and shall be signed by the persons making it, and shall be filed in the office of the Superintendent with any evidence which may have been taken by the arbitrators or the umpire. The Superintendent shall lay down the boundaries in accordance with the award.

18. The Superintendent may at any time cause to be erected, on any land which is to be, or has been, surveyed under this Act, temporary or permanent boundary-marks of such materials and in such number and manner as he may determine to be sufficient.

Superintendent may erect boundary-marks.

19. When any temporary boundary-mark has been erected under the last preceding section, the Superintendent may cause a notice in writing under his hand to be served on the owner or person in occupation of the land or premises whereon, or adjoining which, such boundary-mark is situate, requiring him to maintain and keep in repair such boundary-mark till the survey has been completed.

Maintenance of temporary boundary-marks.

20. After the survey of any part of the Town has been completed, the Superintendent shall deposit all maps, field-books, proceedings, awards and all other documents connected with the survey of such part in the municipal office of the Corporation of Calcutta.

All documents connected with the survey to be sent to the municipal office.

Any person interested in the survey may, at any time within two months from the date of such deposit, which date shall be notified in the Calcutta Gazette, inspect such documents free of charge.

And, if during such period any objection to the survey be lodged with the Superintendent, such objection shall be decided by the Superintendent or by such officer as the Local Government may appoint in this behalf.

21. After all objections lodged under the last preceding section have been decided, the Local Government shall, if it approves the survey, signify such approval by notification in the Calcutta Gazette.

Approval of the survey by the Local Government to be notified.

22. No suit shall lie to set aside any demarcation of boundaries made under the provisions of this Act unless brought within one year from the date of the notification mentioned in the last preceding section.

No suit shall lie unless brought within one year.

23. The Local Government may lay down rules not being inconsistent with this Act to provide for the preparation of maps and for the collection and record of any information in respect of any land to be surveyed under this Act, and generally for the proper performance of all things to be done and for the regulation of all proceedings to be taken under this Act.

Local Government may make rules under the Act.

24. Every notice in and by this Act required to be served on any person may be served—

How notices may be served.

(*a*) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person usually resides or holds his office, or carries on his business, or by delivering the same to an agent or servant of such person, or to a male adult member of his

family and by fixing a copy on some conspicuous part of the land or premises to which it relates; or

(*b*) by sending a registered cover through the post office containing such notice directed to the said person at the place where he resides:

Provided that, after the publication of the notification referred to in section 21, no survey made under this Act shall be vitiated for any defect in the service of notice.

Penalty for failure to comply with requisition in notice.

25. Whoever fails to comply with a requisition contained in any notice duly served under section 5 or section 8 of this Act shall be liable to a fine not exceeding one hundred rupees.

Proceedings not to be affected by informality.

26. No proceedings under this Act shall be affected by reason of any informality, provided the directions of this Act be in substance and effect complied with; and no proceedings under this Act shall be affected by reason of the omission to serve any notice on an owner whose name is not registered as owner in the Calcutta Collectorate or in the registers of the Corporation of the Town of Calcutta.

Power of Local Government to extend this Act to the Suburbs.

27. The Local Government may extend the whole or any of the provisions of this Act to the whole or any part of the Suburbs of Calcutta which may hereafter be amalgamated for municipal purposes with the Town of Calcutta.[a]

ACT No. II OF 1887.

Received the Lieutenant-Governor's assent on the 14th April, 1886, and the Governor General's assent on the 5th March, 1887.

An Act to amend Bengal Act V of 1880.

Preamble.

WHEREAS it is expedient to amend the Bengal Vaccination Act, 1880;[b] It is enacted as follows:— Ben. V of 1880.

Preliminary.

Construction and commencement of Act.

1. This Act shall be read with, and taken as part of, the Bengal Vaccination Act, 1880.[b]

And it shall come into force from the day[c] on which it may be published in the Calcutta Gazette with the assent of the Governor General.

Interpretation.

2. In this Act, unless there be something repugnant in the subject or context,—

"Vessel."

"vessel" includes anything made for the conveyance by water of human beings or of property.

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[a] See Ben. Act II of 1888, s. 458, *infra*.
[b] See *supra*, p. 474.
[c] *i.e.*, the 9th March, 1887.

Vaccination of Children.

3. In section 3, immediately before the last paragraph, the following shall be inserted:— Amendment of section 3.

[See *supra*, p. 476.]

4. For the first paragraph of section 4 the following shall be substituted:— Amendment of section 4.

[See *supra*, p. 476.]

Vaccination of Persons on board Vessels.

5. To section 13 the following shall be added:— Amendment of section 13.

[See *supra*, p. 478.]

Miscellaneous.

6. After section 13 the following section shall be inserted:— New section to follow section 13.

[See *supra*, p. 479.]

7. To section 28, after clause (*c*), the following clause shall be added:— Amendment of section 28.

[See *supra*, pp. 482, 483.]

8. After section 29 the following sections shall be inserted:— New sections to follow section 29.

[See *supra*, p. 483.]

THE FIRST SCHEDULE.

[See *supra*, p. 484.]

ACT No. III OF 1887.

Received the Lieutenant-Governor's assent on the 2nd April, 1887, and the Governor General's assent on the 15th idem.

An Act to amend the Calcutta Port Improvement Act, 1870.

WHEREAS it is expedient to further amend the Calcutta Port Improvement Act, 1870[a]; It is enacted as follows:— Preamble.

Ben. V of 1870.

1. This Act may be called the Calcutta Port Improvement Act Amendment Act, 1887. Short title.

2. It shall be read with, and taken as part of, Bengal Act V of 1870,[a] as amended by Bengal Acts VII of 1871,[b] III of 1872,[c] IV of 1880,[d] I of 1881[e] and II of 1883[f]; and it shall come into force on such date[g] as may be fixed by Commencement.

[a] See *supra*, p. 130.
[b] See *supra*, p. 179.
[c] Ben. Act III of 1872 has been repealed by Act X of 1889.
[d] See *supra*, p. 469.
[e] See *supra*, p. 602.
[f] See *supra*, p. 639.
[g] The Act came into force on the 20th April, 1887—see Calcutta Gazette of that date, Pt. I, p. 288.

the Lieutenant-Governor, not being more than three months after the date[a] on which it may be published in the Calcutta Gazette with the assent of the Governor General.

Repeal of sections 2, 4 and 14 of Ben. Act V of 1870.

3. Sections 2, 4 and 14 of Bengal Act V of 1870[b] are hereby repealed.

This repeal shall not affect the validity of anything done or suffered, or any right, title, obligation or liability accrued, before the commencement of this Act.

Constitution of Commissioners.

4. There shall be thirteen Commissioners, that is to say—

six elected Commissioners,

six nominated Commissioners, and

a Chairman:

Provided that, when all the vacancies in the number of the Commissioners appointed under Bengal Act V of 1870[b] have been filled under the first four clauses of section 10, not less than two of the Commissioners shall be natives of India residing in Calcutta or Howrah.

Election and appointment of commissioners.

5. Of the elected Commissioners—

four shall be elected by the members for the time being of the Bengal Chamber of Commerce,

one shall be elected by the members for the time being of the Calcutta Trades Association, and

one shall be elected by the Commissioners of the town of Calcutta,

in such manner as shall, from time to time, be determined, at a meeting of the members of the said Chamber, at a meeting of the members of the said Association, and at a meeting of the said Commissioners of the Town of Calcutta, convened in accordance with the rules at the time in force in this behalf.

The President of the said Chamber, the Master of the said Association and the Chairman of the said Commissioners of the Town of Calcutta shall each make a return to the Lieutenant-Governor of the name of every person so elected by the said Chamber, the said Association and the said Commissioners of the Town of Calcutta; and such return shall be published in the Calcutta Gazette.

In default of election, Lieutenant-Governor to appoint.

6. In the event of default being made by the Bengal Chamber of Commerce, the Calcutta Trades Association, or the Commissioners of the Town of Calcutta in electing any Commissioner under the last preceding section within the period hereinafter prescribed in this behalf, it shall be lawful for the Lieutenant-Governor to appoint a person, and the person so appointed shall be deemed

[a] *i. e.*, the 20th April, 1887.

[b] For Ben. Act V of 1870, see *supra*, p. 130.

to be a Commissioner as if he had been elected by the Bengal Chamber of Commerce, the Calcutta Trades Association or the Commissioners of the Town of Calcutta, as the case may be.

Appointment of nominated Commissioners and Chairman.

7. The nominated Commissioners and the Chairman shall be appointed by the Lieutenant-Governor by notification in the Calcutta Gazette.

Appointment of Vice-Chairman.

8. The Lieutenant-Governor may, from time to time, appoint one of the Commissioners to be Vice-Chairman, and may cancel such appointment.

Commissioners under Ben. Act V of 1870 continued.

9. Notwithstanding anything in this Act contained, the Commissioners appointed under section 2 of Bengal Act V of 1870[a] shall continue to hold office until the expiry of the term prescribed in section 3 of the said Act.

First elections and appointments under this Act.

10. Each of the first four vacancies in the number of the Commissioners appointed under Bengal Act V of 1870[a] caused by Commissioners, who at the time of their appointment were members of the Bengal Chamber of Commerce, ceasing to act, shall be filled by election by the members for the time being of the Bengal Chamber of Commerce in the manner provided in section 5.

When a vacancy in the number of the Commissioners appointed under Bengal Act V of 1870[a] is caused by a Commissioner, who at the time of his appointment was a member of the Calcutta Trades Association, ceasing to act, such vacancy shall be filled by election by the members for the time being of the Calcutta Trades Association in the manner provided in section 5.

When a vacancy in the number of the Commissioners appointed under Bengal Act V of 1870[a] is caused by the Chairman of the Commissioners of the Town of Calcutta ceasing to act, such vacancy shall be filled by election by the Commissioners of the Town of Calcutta in the manner provided in section 5.

All other vacancies in the number of the Commissioners appointed under Bengal Act V of 1870[a] shall be filled by appointment by the Lieutenant-Governor in the manner provided in section 7.

And thereafter all vacancies caused by elected Commissioners ceasing to act shall be filled by election under section 5, and all vacancies caused by nominated Commissioners ceasing to act shall be filled by appointment under section 7.

Time within which elections and appointments are to take place.

11. All vacancies in the number of the Commissioners, whether appointed under Bengal Act V of 1870[a] or elected or appointed under this Act, shall be filled by election or appointment, as the case may be, within one month.

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[a] For Ben. Act V of 1870, see *supra*, p. 130.

Casual vacancies.

12. Any casual vacancy in the number of the Commissioners occasioned by death, resignation or disqualification shall be filled up in the same manner, and subject as far as may be to the same provisions, as are applicable in the case of original elections and appointments of Commissioners.

Amendment of sections 3, 5, 12 and 13 of Ben. Act V of 1870.

13. In section 3 of Bengal Act V of 1870[a], before the word "re-appointed" shall be inserted the words "re-elected or"; in section 5 the words "as hereinbefore provided" shall be omitted, and before the word "appointed" shall be inserted the words "elected and"; in section 3 and section 12, before the word "appointed" shall be inserted the words "elected or", wherever the same occurs; and in section 12 and section 13, before the word "appointment" shall be inserted the words "election or" wherever the same occurs.

ACT No. IV OF 1887.

Received the Lieutenant-Governor's assent on the 26th March, 1887, and the Governor General's assent on the 11th May, 1887.

An Act to appoint Commissioners for the Port of Chittagong.

Preamble.

WHEREAS it is expedient to provide for the management of the affairs of the port of Chittagong, and for that purpose to appoint Commissioners; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called the Chittagong Port Commissioners Act, 1887.

Commencement.

And it shall come into force on such date[b] as the Local Government may, by notification, direct.

Interpretation.

2. In this Act, unless there be something repugnant in the subject or context,—

"High-water mark."

"high-water mark" means a line drawn through the highest points reached by ordinary spring tides at any season of the year:

"Land."

"land" includes the bed of the river below high-water mark, and also things attached to the earth or permanently fastened to anything attached to the earth:

"Low-water mark."

"low-water mark" means the lowest point reached by ordinary ebb spring tides at any season of the year:

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[a] For Ben. Act V of 1870, see *supra*, p. 130.

[b] The Act came into force on the 25th April, 1888—see Calcutta Gazette of 25th *idem*, Pt. I, p. 344.

"master," when used in relation to any vessel, means any person (except a pilot or harbour-master) having for the time being the charge or control of such vessel: "Master."

"notification" means a notification published in the Calcutta Gazette: "Notification."

"owner" includes also any agent to whom a vessel is consigned: "Owner."

"pilot" means a person for the time being authorized by the Local Government to pilot vessels: "Pilot."

"port" means the Port of Chittagong as defined for the purposes of this Act: "Port."

"river" means any flowing water within the port navigable by vessels, and includes the bank up to high-water mark: "River."

"vessel" includes any ship, barge, boat, raft or craft or any other thing whatever made for the conveyance by water of human beings or of property. "Vessel."

3. The Local Government may, by notification, define the limits of the port for the purposes of this Act, and may from time to time, by a like notification, alter such limits.* Power to define and alter limits of port.

Such limits may extend to any part of the navigable approaches to Chittagong, and may include any wharves, quays, stages, jetties, piers, tramways, warehouses, sheds and other works made on behalf of the public for the convenience of traffic, for the safety of vessels or for the improvement, maintenance and good government of the port or river, whether within or without high-water mark, and (subject to any rights of private property therein) any portion of the shore or bank within fifty yards of high-water mark.

CHAPTER II.

APPOINTMENT AND ELECTION OF THE COMMISSIONERS.

4. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in the "Commissioners of the Port of Chittagong," hereinafter called "the Commissioners," and the Commissioners shall be a body corporate and have perpetual succession and a common seal, inscribed "Commissioners of the Port of Chittagong," and shall sue and be sued by the name first aforesaid. Commissioners incorporated.

5. There shall be nine Commissioners, of whom six shall be appointed by the Local Government, and three shall be elected by such body, bodies or firms engaged in commerce in the port as the Local Government may, with the Appointment and election of Commissioners.

* For notification under s. 3, defining the limits of the Port of Chittagong for the purposes of this Act, see Calcutta Gazette, 7th November, 1888, Pt. I, p. 947.

previous sanction of the Governor General in Council, from time to time direct.

In default of election Local Government to appoint.

6. In the event of default being made by such body, bodies or firms in electing any Commissioner under the last preceding section, it shall be lawful for the Local Government to appoint a person, and the person so appointed shall be deemed to be a Commissioner as if he had been elected by such body, bodies or firms.

Tenure of office.

7. Every Commissioner shall, unless he becomes in the meantime disqualified under section 8, hold office for a term of two years; and any person on ceasing to be a Commissioner may, unless he has become disqualified under section 8, be re-appointed or re-elected.

The Local Government may at any time accept the resignation of any Commissioner.

Disqualification for office of Commissioner.

8. No person shall be qualified to be a Commissioner during such time as he—

(*a*) is an uncertificated bankrupt or insolvent, or

(*b*) holds any office or place or profit under the Commissioners, or

(*c*) has, directly or indirectly, any share or interest in any work done by order of the Commissioners, or in any contract, or employment with, by or on behalf of, the Commissioners;

and any Commissioner who—

(*d*) becomes disqualified for any of the aforesaid reasons, or

(*e*) is absent from the meetings of the Commissioners for a period exceeding twelve consecutive months, or without the permission of the Commissioners from six consecutive meetings of the Commissioners, or

(*f*) is sentenced to imprisonment,

shall cease to be a Commissioner, and his office shall thereupon become vacant:

Provided always that no Commissioner shall vacate his office by reason only of his—

(*g*) having a share in any joint-stock company which shall contract with or be employed by, or on behalf of, the Commissioners, or

(*h*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Commissioners may be inserted, or

(*i*) being interested in any loan of money to the Commissioners.

Casual vacancies.

9. Any casual vacancy in the office of a Commissioner occasioned by the

death, resignation or disqualification of such Commissioner shall be filled up within one month

by the Local Government if the office vacated was that of a Commissioner appointed by the Local Government, or

by the body, bodies or firms for the time being invested by the Local Government with the power of electing Commissioners under this Act, if it was that of an elected Commissioner,

in the same manner and subject, as far as may be, to the same provisions as are applicable in the case of original appointments and elections of Commissioners:

Provided that the Commissioner so appointed or elected shall retain his office so long only as the vacating Commissioner would have retained it if such vacancy had not occurred.

Chairman and Vice-Chairman.

10. The Local Government may from time to time appoint one of the Commissioners to be Chairman and another of the Commissioners to be Vice-Chairman, and may cancel such appointment. Such Chairman and Vice-Chairman, respectively, shall receive such remuneration, if any, as the Local Government may from time to time determine.

Appointments and elections to be notified.

11. The names of all persons appointed or elected under sections 5, 6 and 9 shall be notified in the Calcutta Gazette.

CHAPTER III.

Powers and Duties of Commissioners.

Power to hold property.

12. With the previous sanction of the Local Government, the Commissioners may acquire and hold moveable or immoveable property within or without the limits of the port; and, with the same sanction, may lease, mortgage, sell or exchange such property.

Transfer of Government property to Commissioners.

13. The property specified in the first schedule of this Act shall be vested in the Commissioners:

Provided that—

(*a*) no buildings or other permanent structures shall be erected thereon, except with the sanction of, and in accordance with plans to be previously approved by, the Local Government;

(*b*) any portion of such property required by Government for a public purpose may be resumed by Government without claim to compensation on the part of the Commissioners, except for buildings or other permanent structures erected thereon with the sanction of the Local

Government subsequently to the date on which this Act comes into force;

(*c*) if any question arises between the Government and the Commissioners as to the boundaries of any portion of such land, the Local Government may define and demarcate such boundaries, and the decision of the Local Government in respect to such boundaries shall be final.

Acquisition of land.

14. When any land is required for the purposes of this Act, the Local Government may, on the request of the Commissioners, proceed to acquire it under the provisions of the Land Acquisition Act, 1870;* and, on payment by the Commissioners of the compensation awarded under that Act, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the Commissioners. X of 1870.

Property to be in trust.

15. All property vested in, or acquired or held by, and all moneys paid or payable to, the Commissioners shall be held and applied by them in trust for the purposes of this Act.

Works to be constructed.

16. The works to be constructed and carried out by the Commissioners may include the following:—

(*a*) wharves, quays, stages, jetties and piers, with all necessary and convenient drains, arches, landing-places, stairs, fences and approaches;

(*b*) tramways, warehouses, sheds, engines and other appliances for conveying, receiving and storing goods and merchandize landed or to be shipped;

(*c*) laying down moorings and erecting cranes, scales and all other necessary appliances for loading and unloading vessels;

(*d*) reclaiming, enclosing and raising any part of the bank or bed of the river within the limits of the port;

(*e*) the construction and application of dredges and other machines for cleansing, deepening and improving the bed of the river within the limits of the port;

(*f*) procuring and employing steam-vessels for towing vessels into, out of, in or upon the river of the port;

(*g*) such works without the limits of the port as shall be necessary for the protection of works executed under this Act;

(*h*) the excavation and maintenance of the Moheshkali channel or any other navigable channel communicating therewith which may hereafter be placed under the management of the Commissioners by the Local Government by notification;

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* See General Acts, 1867—76, 2nd Ed., p. 177.

(*i*) all such other works and appliances as may, in the opinion of the Commissioners, be necessary for carrying out the provisions of this Act.

Power to make port-rules.

17. With the previous sanctions of the Local Government, the Commissioners may make rules consistent with this Act and with the Indian Ports Act, 1889,[a] for any of the following purposes:— of 1889.

(*a*) for regulating, declaring and defining the wharves, quays, stages, jetties and piers on and from which goods shall be landed from and shipped in vessels within the port;

(*b*) for the safe and convenient use of such wharves, quays, stages, jetties, piers and of landing-places, tramways, warehouses, sheds and other works in and adjoining them;

(*c*) for regulating the reception and removal of goods within and from the premises of the Commissioners, and for declaring the procedure to be followed in taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged;

(*d*) for the mode of payment of tolls, charges, dues and rates levied under this Act:

(*e*) for providing water for ships and for licensing and regulating water-boats within the port;

(*f*) for the removal of wrecks from the port or the river and keeping clean the port, the river, the bank of the river and the works of the Commissioners, and for preventing filth or rubbish being thrown therein or thereon;

(*g*) for otherwise carrying out the purposes of this Act:

and may from time to time, with the like sanction, repeal or alter such rules.

Such rules when sanctioned shall be published in such manner as the Local Government may direct, and shall thereupon have the force of law.

Control of pilots within the port.

18. Within the limits of the port pilots in charge of vessels shall obey all lawful orders issued to them by the Commissioners in respect to such vessels.

Free public landing-places.

19. The Commissioners shall make a sufficient number of landing-places within the port, from and upon which the public may be permitted to embark and land free of charge.

Removal of bathing and landing-places.

20. The Commissioners may occupy or remove or alter any bathing-place or landing-place within the port, and prohibit the public from resorting to or using such bathing-place or landing-place:

Provided that the Commissioners shall provide for the use of the public such other bathing-places or landing-places, if any, as the Local Government may, by notification, direct.

[a] See Act X of 1889, s. 2.

Appliances for the convenient shipment and landing of goods in and from sea-going vessels.

21. For the expeditious and convenient landing and shipment of goods from and in sea-going vessels within the port, and for the storing of such goods, the Commissioners may provide and maintain sufficient wharves, quays, stages, jetties, piers, warehouses and sheds, and sufficient servants and appliances, and may by their servants land and ship all goods from and in any such vessel coming to such wharf, quay, stage, jetty or pier, except where there is a lawful excuse for refusing to land or ship such goods, or such vessel is under any enactment for the time being in force not entitled to have her cargo shipped or discharged:

Provided that—

(*a*) the Commissioners shall not be bound to land, ship or move any single article or package exceeding ten tons of twenty hundred weight in weight, except at such special charge as may be agreed on in respect of such article or package;

(*b*) the Commissioners may, by special agreement with the masters of vessels or the owners of goods, permit goods to be landed and shipped by others than the servants of the Commissioners.

Sea-going vessels compelled to use wharves, &c.

22. When any wharf, quay, stage, jetty or pier has been made and completed, with sufficient warehouses, sheds and appliances for landing and shipping, or for landing or shipping, goods from and in sea-going vessels, the Commissioners may, with the previous sanction of the Local Government, by a notification published in three consecutive numbers of the Calcutta Gazette, declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping, or for landing or for shipping, as the case may be, goods from and in sea-going vessels.

From and after such publication the Commissioners may from time to time, when there is room at such wharf, quay, stage, jetty or pier, order to come alongside of such wharf, quay, stage, jetty or pier for the purpose of landing and shipping goods, or for landing or for shipping the same, as the case may be, any sea-going vessel within the port which has not commenced to discharge cargo, or which, being about to take in cargo, has not commenced to take in cargo.

If accommodation sufficient, all sea-going vessels compelled to use wharves, &c.

23. When a sufficient number of wharves, quays, stages, jetties, piers, warehouses, sheds and appliances have been provided as aforesaid, the Commissioners may, with the previous sanction of the Local Government, by an order published in three consecutive numbers of the Calcutta Gazette, direct that no goods shall be landed or shipped from or in sea-going vessels within the port, save at such wharves, quays, stages, jetties and piers.

The Commissioners may in like manner, with the like sanction, alter, vary or revoke such order.

Inland vessel compelled to use wharves, &c.

24. When any wharf, quay, stage, jetty or pier for receiving, landing or shipping goods from or in vessels, not being sea-going vessels, has been made and completed by the Commissioners, with sufficient warehouses, sheds and appliances in that behalf, the Commissioners may, with the sanction of the Local Government, by an order published in three consecutive numbers of the Calcutta Gazette, declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping goods from or in vessels, not being sea-going vessels, and that, within certain prescribed limits within the port to be specified in such order, it shall not be lawful to land or ship any goods from or in any vessel, not being a sea-going vessel, of any class specified in such order, except at such wharf, quay, stage, jetty or pier, or for any such vessel while within such limits to anchor, fasten or lie within fifty yards of low-water mark without the consent of the Commissioners.

If after such publication any such vessel, while within such limits, so anchors, fastens or lies, the Commissioners may cause the same to be removed out of the said limits.

The Commissioners may in like manner, with the like sanction, alter, vary or revoke any such order.

Power to order removal of vessels from wharves, &c.

25. The Commissioners may, by notice in writing, order the master or owner of any vessel to remove such vessel from any wharf, quay, stage, jetty or pier belonging to the Commissioners, and, unless such vessel is removed therefrom within thirty-six hours after service of such notice on the master or owner thereof, the Commissioners may charge in respect of such vessel such sum as they think fit not exceeding one hundred rupees for each day of twenty-four hours or portion of such day after the expiry of such thirty-six hours during which such vessel remains at such wharf, quay, stage, jetty or pier.

Power to exempt from obligation to use wharves, &c.

26. Notwithstanding anything contained in sections 22, 23 and 24, the Local Government may, by notification, from time to time permit certain specified vessels or classes of vessels to discharge or ship cargo, or certain specified cargo or classes of cargo, at such part of the port, in such manner, during such period, subject to such payments and on such conditions as the Local Government may think fit, and otherwise grant exemption from the provisions of such sections.

The Local Government may also, by like notification, cancel or modify any such notification.

Discharge of

27. Whenever any goods are landed by the Commissioners from any

liability on goods landed.

vessel, the Commissioners shall, if so required, give to the master of such vessel a receipt in the form set forth, or to the effect set forth in the second schedule of this Act, and may in any such receipt include all goods landed from such vessel during one day:

Provided that no master or owner of a vessel, from which the goods in respect of which such receipt is given may have been landed, shall be liable for any loss or damage to such goods which may occur after they have been so landed.

Wharves, &c, to be appointed under Customs Acts.

28. When the Local Government appoints, under the provisions of any Act for the regulation of duties of customs, any wharf, quay, stage, jetty, pier, warehouse or shed provided under this Act for the use of sea-going vessels to be a wharf for the landing or shipping, or a warehouse for the storing, of goods within the meaning of such Act, the Commissioners shall set apart, maintain and secure on or in such wharf, quay, stage, jetty, pier, warehouse or shed such portion thereof, or place therein or adjoining thereto, for the use of the officers of customs as the Local Government approves of or appoints in that behalf.

Dues at customs wharves, &c.

29. Notwithstanding that any wharf, quay, stage, jetty, pier, warehouse or shed or portion thereof, has, under the provisions of the last foregoing section, been set apart for the use of the officers of customs, all dues, rates, tolls, charges and rents payable under this Act in respect thereof, or for the use thereof, or for the stowage of goods therein, shall be paid and be payable to the Commissioners or to such persons as they may appoint to receive such dues, rates, tolls, charges or rents.

Private wharves, &c., prohibited.

30. Save as is hereinafter provided, no person except the Commissioners shall, after the date on which this Act comes into force, make, erect or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier, erection or mooring.

Any matter or thing so made, erected or fixed may be removed by the Commissioners, and the person who has so made, erected or fixed any such matter or thing shall be punished with fine which may extend to one thousand rupees, and with a further fine which may extend to one hundred rupees for every day during which such matter or thing has been permitted to remain so made, erected or fixed after notice to remove it has been given to him, and shall also be liable to pay all expenses which may have been incurred by the Commissioners in removing such matter or thing.

Power to permit erection of

31. The Commissioners may, by an order in writing, and subject to the conditions contained in the same, permit any person to make, erect or fix

below high-water mark within the port any wharf, dock, quay, stage, jetty, pier, erection or mooring.

private wharves, &c., within the port subject to conditions.

32. In case any wharf, dock, quay, stage, jetty, pier, erection or mooring is, after the date on which this Act comes into force, without the consent in writing of the Commissioners, made, erected or fixed below high-water mark without the limits for the time being of the port, and thereafter the limits of the port are extended so as to include the place in which such wharf, dock, quay, stage, jetty, pier, erection or mooring has been made, erected or fixed, the Commissioners may remove, fill up or destroy such wharf, dock, quay, stage, jetty, pier, erection or mooring without making any compensation therefor.

Wharves, &c., beyond port limits.

33. The Commissioners shall frame—

Scale of tolls and charges to be framed.

(*a*) a scale of tolls, dues, rates and charges for the landing and shipment of goods from and in sea-going vessels and vessels not being sea-going vessels respectively, at the wharves, quays, stages, jetties and piers, and for the use of such wharves, quays, stages, jetties and piers by such vessels, and for the storing and keeping of any goods stored in any premises belonging to the Commissioners, and for the removal of goods, and for the use of any mooring;

(*b*) a scale of tolls for the use of the said wharves, quays, moorings, stages, jetties and piers by any such vessels, in case the Commissioners permit the goods to be landed or shipped by others than their own servants;

(*c*) a scale of charges for any services to be performed by the Commissioners or their servants in respect of any vessels or goods, or for the use of any works or appliances to be provided by the Commissioners.

Such scale shall be submitted to the Local Government, and, after approval or modification by the Local Government, shall be published by the Commissioners in the Calcutta Gazette.

The Commissioners may from time to time in like manner, with the like approval or modification and publication, alter such scales.

Every such scale shall be printed in the English and Bengali languages and characters, and shall be hung up, and kept hung up, in some conspicuous place at the several wharves, quays, stages, jetties, piers, warehouses and sheds.

34. For the amount of all tolls, dues, rates and charges leviable under

Commission-

ers' lien for tolls and charges.

this Act in respect of any goods, the Commissioners shall have a lien on such goods, and shall be entitled to seize and detain them until such tolls, dues, rates and charges are fully paid.

Tolls, dues, rates and charges in respect of goods to be landed shall become payable immediately on the landing of the goods, and, in respect of goods to be removed from the premises of the Commissioners or to be shipped for export, shall be payable before the goods are removed or shipped.

The lien for such tolls, dues, rates and charges shall have priority over all other liens and claims, except a lien for freight, primage and general average where such lien has been preserved in the manner hereinafter provided, and a lien for money payable to Her Majesty or the Secretary of State for India in Council under any law for the time being in force.

Owner's lien for freight.

35. If the master or owner of any vessel, at or before the time of landing from such vessel of any goods at any wharf, quay, stage, jetty or pier, gives to the Commissioners notice in writing that such goods are to remain subject to a lien for freight, primage or general average of an amount to be mentioned in such notice, such goods shall continue liable after the landing thereof to such lien.

Such goods shall be retained either in the warehouses and sheds of the Commissioners, or, with the consent of the Chief Officer of Customs, in the public warehouses, at the risk and expense of the owners of the said goods, until the lien is discharged as hereinafter mentioned.

Discharge of ship-owner's lien for freight.

36. Upon the production to any officer appointed by the Commissioners in that behalf of a document purporting to be a receipt for, or a release from, the amount of such lien, executed by the person by or on whose behalf such notice has been given, the Commissioners may permit such goods to be removed without regard to such lien :

Provided that they shall have used reasonable care in respect to the authenticity of such document.

Goods may be removed to warehouses.

37. Whenever goods have, without any default on the part of the Commissioners, been left for two clear days on or in any wharf or shed belonging to the Commissioners, the Commissioners may cause such goods to be removed either to any warehouse belonging to them or, with the consent of the Chief Officer or Customs, to the public warehouses ; and the removal to and detention in any such warehouse shall be at the risk and expense of the owners of the said goods.

Whenever any goods are so removed, the Commissioners shall give notice to the consignee or owner of such goods of such removal, if his address be

known, by letter sent by post to such address or left thereat; and shall also publish by notification and in the local newspaper or newspapers notice of such removal, and shall specify therein the numbers, marks and descriptions of such goods so far as the same appear; and the consignee or owner of such goods, in addition to the expenses of their removal, shall be liable, in case the goods are removed to any warehouse of the Commissioners, to a charge for warehousing for the time during which the goods shall remain in the said warehouse.

If the goods are removed to the public warehouses, the said consignee or owner shall be liable to the charges for warehousing goods in such public warehouses; and the said goods shall remain subject to all liens to which they would have been liable if they had remained in the possession of the Commissioners, and shall be subject to the power of sale hereinafter given.

Recovery of tolls and charges by sale of goods.

38. If the tolls, dues, rates and charges payable to the Commissioners in respect of any goods under this Act are not paid, or if the lien for freight, primage or general average where such notice as aforesaid has been given is not discharged, the Commissioners may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, primage or general average, shall, at the expiration of four months from the time when the goods were placed in their custody, sell by public auction the said goods, or so much thereof as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Before making such sale, ten days' notice shall be given by publication thereof in the Calcutta Gazette and in the local newspaper or newspapers.

If the address of the owner of the goods has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the Commissioners, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address or sent by the post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send such notice, nor shall any such purchaser be bound to enquire whether such notice has been sent:

Provided that, if such goods are of so perishable a nature as, in the opinion of the officer appointed by the Commissioners in that behalf, to render early or immediate sale necessary or advisable, the Commissioners may, within such period not less than twenty four hours after the landing of the goods as they think fit, sell by public auction the said goods or such portion of them as aforesaid, in which event such notice, if any, shall be given to the owner of the goods as the urgency of the case admits of.

Application of sale-proceeds.

39. The proceeds of every such sale shall be applied as follows:—

(*a*) in payment of the expenses of the sale;

(*b*) in payment, according to their respective priorities, of the liens and claims excepted in section 32 from the priority of the lien of the Commissioners;

(*c*) in payment of the tolls, dues, rates and charges of landing, removing, storing or warehousing the goods, and of all other charges due to the Commissioners in respect thereof.

The surplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agents, on his applying for the same:

Provided that such application is made within one year from the sale, or reason is shown to the satisfaction of the Commissioners why such application was not so made; and, in case such application shall not be so made, nor reason shown, such surplus shall be held by the Commissioners upon trust for the purposes of this Act.

Recovery of tolls and charges by distraint of vessel.

40. If the master of any vessel in respect of which any tolls, dues, rates, charges or penalties are payable under this Act, or any rules or orders made in pursuance thereof, refuses or neglects to pay them or any part of them on demand, the Commissioners may apply to the Collector of Customs of the port, and such Collector shall distrain or arrest such vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the Commissioners is paid.

And, in case any part of the said tolls, dues, rates, charges or penalties, or of the costs of the distress or arrestment, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrestment has been so made, the Collector of Customs may cause the vessel or other thing so distrained or arrested to be sold, and, with the proceeds of such sale, shall satisfy such tolls, dues, rates, charges or penalties and costs, including the costs of the sale remaining unpaid, rendering the surplus, if any, to the master of such vessel on demand.

Port-clearance not to be granted till tolls, &c., are paid.

41. If the Commissioners give to the officer of Government whose duty it is to grant the port-clearance of any vessel a notice stating that an amount therein specified is due in respect of tolls, dues, rates, charges or penalties chargeable under this Act, or any rules or orders made in pursuance thereof, against such vessel, or by the owner or master of such vessel, in respect thereof, or against or in respect of any goods on board such vessel, such officer shall not grant such port-clearance until the amount so chargeable has been paid.

Compensation for damage to property

42. In case any damage or mischief is done to any wharves, docks, quays, jetties, stages, piers or works constructed or acquired by the Commissioners

under this Act by any vessel, through the negligence of the master thereof or of any of the mariners or persons employed therein, any Magistrate of the town of Chittagong may, on the application of the Commissioners, and on declaration by them that payment for such damage or mischief has been refused or has not been made on demand, issue a summons to the master or owner of such vessel, requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief. of Commissioners.

If at the time appointed in the summons, and whether the person summoned appears or not, it is proved that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed five hundred rupees, the Magistrate may issue his warrant of distress, under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores of the vessel may be seized and sold to cover the expenses of and attending the execution of the distress, and the pecuniary amount of damage as aforesaid, and such amount shall be paid to the Commissioners out of the proceeds of the distress:

Provided that if, at the time of the damage or mischief, the vessel was under the orders of a duly authorized officer belonging to the pilot service or the harbour-master's or master-attendant's department, the case shall not be cognizable by the Magistrate under this section.

43. The Commissioners shall provide such sums as the Local Government may from time to time require for the establishment and maintenance of police, to be called "river-police," for the protection of the port, the approaches to the port and the river. Such sums shall be a first charge on any property vested in, and on any moneys paid or payable to, the Commissioners under this Act. River-police.

The river-police shall be enrolled under Act V of 1861[a] (*for the Regulation of Police*).

CHAPTER IV.

General Control of Government.

44. All acts and proceedings of the Commissioners shall be subject to the approval of the Local Government, who may cancel, suspend or modify any such acts or proceedings, and may grant exemption from the payment of any tolls, charges, dues or rates leviable under this Act. Commissioners' acts subject to approval.

45. The Local Government may from time to time make rules consistent Control over

[a] See General Acts, 1834—66, 2nd Ed., p. 363.

works and expenditure.

with this Act as to the cost and class of works which the Commissioners may execute, and the object to which the receipts of the Commissioners shall be applied.

Local Government may order a survey.

46. The Local Government may at any time order a survey and examination of any works of the Commissioners under this Act, or the site thereof, and the cost of such survey or examination shall be borne and paid by the Commissioners.

Local Government may carry out neglected works.

47. If the Commissioners allow any work acquired or constructed by them under this Act to fall into disrepair, or do not complete any work commenced by them or duly estimated for and sanctioned, and do not, after notice given by the Local Government in writing, proceed effectually to repair or complete such work, the Local Government may cause such work to be restored, completed or constructed, and the cost thereof shall be borne and paid by the Commissioners.

Local Government may revoke powers of Commissioners.

48. If at any time the Local Government is satisfied that the purposes intended to be accomplished under this Act have not been, and are not likely to be, properly accomplished by the Commissioners, the Local Government may, by notification, give notice that, unless within six months the Commissioners take measures to the satisfaction of the Local Government for properly accomplishing such purposes, the powers by this Act conferred on the Commissioners will, at the end of such period, be withdrawn and revoked.

On the expiration of the period aforesaid, the Local Government may, if no such measures to its satisfaction have been taken by the Commissioners, declare such powers to be withdrawn or revoked, and may assume such powers, and thereupon such powers shall be withdrawn and revoked accordingly, and all the powers, rights and authorities and all the property vested by this Act in the Commissioners shall thereupon vest in the Local Government.

CHAPTER V.

SUITS BY AND AGAINST THE COMMISSIONERS.

Commissioners not personally liable.

49. No Commissioner shall be personally liable for any contract made or expense incurred by or on behalf of the Commissioners; but the funds from time to time in the hands of the Commissioner shall be liable for, and chargeable with, all contracts made in manner hereinafter provided.

Commission-

50. Every Commissioner shall be liable for any misappilcation of money

entrusted to the Commissioners to which he has been a party, or which happens through, or is facilitated by, the neglect of his duty.

ers liable for breach of trust.

51. No suit shall be brought against the Commissioners or any of their officers, or any person acting under their direction, for anything purporting to be done under this Act until the expiration of one month next after notice in writing has been delivered or left at the office of the Commissioners, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff.

Limitation of suits.

Unless such notice be proved, the Court shall dismiss the suit.

Every such suit shall be commenced within six months next after the accrual of the right to sue, and not afterwards.

If any person to whom any such notice of suit is given before suit is brought tender sufficient amends to the plaintiff, such plaintiff shall not recover.

52. The Commissioners shall not be answerable for any act or default of any master-attendant or harbour-master, or of any pilot, or of any deputy or assistant of any of the officers above mentioned, or of any person acting under the authority or direction of any such officer or assistant, done within the limits of the port; nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things within the said limits which may be used by such vessel:

Indemnity to Commissioners for acts of harbour-master, &c.

Provided that nothing in this section shall protect the Commissioners from a suit in respect of any act done by or under their express order or sanction.

CHAPTER VI.

Meetings, Establishment, Contracts and the General Conduct of Business.

53. The Commissioners may, if they think fit, elect one of their number to be Secretary to the Commissioners.

A Commissioner may be Secretary.

54. The Commissioners shall have an office where they shall meet for the transaction of business.

Place of business.

55. The Commissioners shall meet for the transaction of business at least once in every month; and for attendance at every such meeting the Com-

Monthly meetings and remuneration

for attendance.

missioners shall receive such fees, subject to such conditions as the Local Government may from time to time prescribe.

Chairman and Vice-Chairman to attend.

56. The Chairman and Vice-Chairman shall, unless prevented by sickness or other reasonable cause, attend all meetings of the Commissioners.

Ordinary and special meetings.

57. The Chairman or, in the event of his illness or absence from Chittagong, the Vice-Chairman may, whenever he thinks fit, and shall upon a requisition made in writing by not less than three Commissioners, convene a meeting of the Commissioners for the transaction of any special business.

Meetings so convened are special meetings: all other meetings are ordinary meetings.

Notice of meetings.

58. At least three days' notice shall be given of every meeting of the Commissioners, and the notice shall state the nature of the business to be transacted.

Conduct of business at meetings.

59. At all meetings of the Commissioners the business shall be conducted in accordance with the following rules:—

(*a*) The Chairman or, in his absence, the Vice-Chairman shall be President; if both be absent, the Commissioners may elect one of their number to be President.

(*b*) The President may, with the consent of the meeting, adjourn the meeting from time to time.

(*c*) At special meetings no business shall be transacted other than the special business for the consideration of which the meeting was specially called: at ordinary meetings any business may be transacted of which due notice has been given.

(*d*) The quorum necessary for the transaction of business shall be such number, not less than four, as the Commissioners may from time to time prescribe.

(*e*) All questions which may come before the Commissioners at any meeting shall be decided by a majority of votes. Each Commissioner shall have one vote; and, in case of equality of votes, the President shall have a second or casting vote.

(*f*) Minutes of the proceedings at all meetings of the Commissioners shall be drawn up after each meeting, and shall be signed by the President and at least one other member who was present at such meeting. A copy of all such minutes shall, as soon as conveniently may be, be transmitted to the Local Government.

Mode of

60. The Commissioners may appoint one or more of their number to

carry out their resolutions and to enforce any of the rules made under the provisions of this Act, or they may appoint a special officer for such purpose. giving effect to resolutions.

61. No proceedings of the Commissioners at any special or ordinary meeting shall be deemed invalid solely by reason of defect of notice or defect of form. Proceedings not invalidated by defect of notice or form.

62. The Commissioners shall from time to time prepare and submit to the Local Government a schedule setting forth the number of officers and servants necessary for carrying out the purposes of this Act, and of the salaries, fees and allowances which it is proposed to assign to such officers and servants. Schedule of establishment.

The Local Government may sanction such schedule, or modify and sanction the same.

Every such schedule so sanctioned shall remain in force till some other such schedule has been so prepared and sanctioned.

It shall not be lawful for the Commissioners to employ any officer or servant for any office or employment not sanctioned in such schedule, nor to pay or allow to any officer or servant any salary, allowance or fee greater than or beyond that sanctioned therein.

Nothing in this section applies to artizans, porters or labourers.

63. The Commissioners and the servants of the Commissioners, other than artizans, porters and labourers, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.[a] Commissioners are public servants.

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64. The Commissioners may from time to time make bye-laws, consistent with this Act, for regulating the time and place of their meetings, the conduct of their business, the division of the duties among themselves, the guidance of persons employed by them, the appointment, payment, leave, suspension and removal of their officers and servants mentioned in the schedule last aforesaid, and for other similar matters. Commissioners may make bye-laws.

65. Such one of their number as the Commissioners may from time to time, with the previous sanction of the Local Government, appoint in this behalf may, for and on behalf of the Commissioners, enter into any contract whereof the value or amount shall not exceed two hundred rupees, in such manner and form as, according to the law for the time being administered in Chittagong, would bind him if such contract were on his own behalf; but every other contract by or on behalf of the Commissioners shall be in writing and signed by the Chairman or Vice-Chairman and by two other Commissioners, and shall be sealed with the common seal of the Commissioners: The making of contracts.

[a] See General Acts, 1834—36, 2nd Ed., p. 243.

Provided that no contract under or by virtue of which a sum greater than ten thousand rupees may in any event be payable by the Commissioners shall be valid without the sanction in writing of the Local Government.

No contract not executed as in this section provided shall be binding on the Commissioners.

Manner in which work to be sanctioned.

66. No new work, the estimated cost of which exceeds one thousand rupees, shall be commenced by the Commissioners, nor shall any contract be entered into by the Commissioners in respect of any such work, until a plan and estimate thereof have been approved by the Commissioners at a meeting.

In case the estimated cost of such new work exceeds five thousand rupees, it shall not be commenced, nor shall any contract be entered into in respect of it, until such plan and estimate have been submitted to the Local Government and sanctioned by it in an order published in the Calcutta Gazette.

And, in case the estimated cost of such new work exceeds ten thousand rupees, it shall not be commenced, nor shall any contract be entered into in respect of it, without the previous sanction of the Governor General in Council.

Money to be kept in treasury.

67. All moneys raised by and paid to the Commissioners under this Act shall be placed in the Chittagong treasury, and no disbursement of such funds or any part thereof shall be made—

(*a*) in excess of such sum as may in that behalf be from month to month appropriated by the Commissioners at a meeting; or

(*b*) except under the signature of the Chairman or Vice-Chairman.

Submission of reports, accounts and estimates.

68. The Commissioners shall annually, or oftener if directed by the Local Government so to do, submit in such form and at such time as the Local Government may from time to time direct—

(*a*) statements of their receipts and disbursements under this Act;

(*b*) reports of all works executed and proceedings taken by them under this Act;

(*c*) an estimate of their probable receipts for the financial year next following, with proposals for the expenditure of the same.

Audit of accounts and sanction and publication of estimates.

69 The accounts of the Commissioners shall be examined and audited in such manner as the Local Government may from time to time direct; and, subject to the provisions of this Act, the estimate of probable receipts, and the proposals for expenditure as aforesaid, may on submission be sanctioned by the Local Government, or may be modified or altered and sanctioned.

An abstract of such estimates and proposals shall, when sanctioned, be published in the Calcutta Gazette.

CHAPTER VII.

Borrowing powers of the Commissioners.

70. The Local Government, acting on behalf of the Secretary of State for India in Council, may, with the previous consent of the Governor General of India in Council, from time to time advance money to the Commissioners for the general purposes of this Act; or

Local Government may advance money to the Commissioners.

the Commissioners may, with the previous consent of the Governor General in Council, from time to time raise money for the said purposes or for the purpose of repaying, either in whole or in part, any moneys heretofore or hereafter borrowed, or owing by the Commissioners:

With consent of Government the Commissioners may raise loan.

Provided always that no expenditure shall be charged by the Commissioners to capital except with the express sanction of the Local Government.

71. Whenever the consent of the Governor General in Council has been obtained to the raising of money by the Commissioners under the last preceding section, the Local Government shall, with the previous consent of the Governor General in Council, direct and appoint the manner in which money shall be raised.

Manner of raising such loans to be determined by Government.

72. When money is raised by the Commissioners on debentures, the debentures shall be in the form in the third schedule, or in such form as the Commissioners, with the previous consent of the Local Government, shall from time to time determine. The holder of any debenture in the form in the third schedule or in any form duly authorized under this section may obtain, in exchange therefor, upon such terms as the Commissioners shall from time to time determine, a debenture in any other form so authorized.

Forms of debentures.

Every debenture issued by the Commissioners shall be transferable—

Transfer of debenture.

(*a*) if it be in the form in the third schedule, by endorsement; and

(*b*) if it be in any other form, in such manner as shall be therein expressed.

The right to sue in respect of the moneys secured by debentures issued under this section shall vest in the respective holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

CHAPTER VIII.

PENALTIES.

Commissioners not to be interested in contract, &c.

73. Any Commissioner, or servant of the Commissioners, who shall acquire, directly or indirectly, any share or interest in any contract or employment with, by, or on behalf of the Commissioners, shall be deemed to have committed an offence made punishable by section 168 of the Indian Penal Code[a]: XLV of 186

Provided that nothing in this section shall apply to a person—

(*a*) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of the Commissioners, or

(*b*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Commissioners may be inserted, or

(*c*) interested in any loan of money to the Commissioners.

Infringement of sections 22, 23, 24, 26, 31.

74. Whoever infringes any order issued under sections 22, 23 or 24 or any condition prescribed under sections 26 or 31 shall be punished with fine which may extend to one hundred rupees; and, if the infringement be continuing, with a further fine which may extend to one hundred rupees for every day such order is infringed.

Infringement of rules.

75. Whoever infringes any rule framed by the Commissioners under section 17 shall be liable to a fine which may extend to fifty rupees, and, if the infringement be continuing, to a further fine which may extend to ten rupees for every day after notice of such infringement has been given by the Commissioners.

Punishment in default of fine.

76. Whenever any person is sentenced to a fine under this Act, the convicting Court may direct that in default of payment of the fine such person shall suffer simple imprisonment for a term which shall not exceed the following scale:—

(*a*) two months in the case of continuing infringement of section 30;

(*b*) one month in the case of continuing infringement of sections 22, 23 and 24;

(*c*) fourteen days if the fine does not exceed fifty rupees;

(*d*) one month if the fine does not exceed one hundred rupees;

(*e*) two months if the fine exceeds one hundred rupees.

Prosecutions.

77. Prosecutions under this Act may be instituted by the Commissioners or any person authorized by them in this behalf and not otherwise.

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[a] See General Acts, 1834—66, 2nd Ed., p. 278.

CHAPTER IX.

MISCELLANEOUS.

Saving of previous port regulations.

78. All acts done and proceedings taken by the Port Officer before this Act comes into force, and all orders, rules and regulations relating to the port and to wharves, quays, stages, jetties, piers, landing-places, tolls, charges, rates and dues within the port made and issued before this Act comes into force, shall, whenever such acts, proceedings, orders, rules or regulations would have been lawful if this Act had been in force, be deemed to have been respectively done, taken, made and issued under the provisions of this Act.

Receiving of dues as revenue.

79. All fees and sums due on account of property for the time being vested in the Commissioners, and all arrears of tolls, charges, rates and dues imposed under this Act, may be recovered as if they were arrears of land-revenue,[a] in addition to the other modes hereinbefore provided.

THE FIRST SCHEDULE.

(*Referred to in section 13.*)

1. All the land belonging to Government, bounded on the east by the Nimtolly creek; on the south by the Kurnofuli river; on the west by the Monohurkhali creek; and on the north by a line drawn from Nimtolly creek to Monohurkhali creek; east and west immediately to the south of the premises owned by B. R. Texeira, known at the time of the passing of this Act as the Sailors' Home, and meeting the public road at its southern extremity.

2. The land held by Government on a perpetual lease from the said B. R. Texeira, at the time of the passing of this Act in the occupation of the Customs Department, bounded on the east by the public road referred to in the last preceding clause; on the south by the land belonging to Government, the boundaries of which are set forth in the last preceding clause; on the west by the Monohurkhali creek; and on the north by the public road which joins the public road hereinbefore referred to.

3. The land held by Government on a perpetual lease from Bahirulla, bounded on the east by the Monohurkhali creek; on the south by the land at the time of the passing of this Act occupied by the Government Salt Golahs; on the west by a public road leading to the Sadr Ghât jetty; and on the north by private property.

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[a] See Ben. Act VII of 1868, *supra*, p. 116.

THE FIRST SCHEDULE—*continued.*

4. The Sadr Ghât jetty and the approaches leading thereto.

5. The waste-land belonging to Government at the time of the passing of this Act occupied by the Customs Department, bounded on the east by the Sadr Ghât jetty; on the south by the Kurnofuli river; on the west by a tank, at the time of the passing of this Act in the possession of Messieurs Bulloch Brothers; and on the north by a road running east and west, lying to the south of the customs-house.

6. The land at the time of the passing of this Act occupied by the port godowns and yard, bounded on the east by the public road leading to the Sadr Ghât jetty, referred to in clause 2 of this schedule; on the south by the Kurnofuli river; on the west by the premises at the time of the passing of this Act in the occupation of Messieurs Bulloch Brothers.

7. All other land the property of Government within the limits of the port of Chittagong being within fifty yards of high-water mark on both banks of the Kurnofuli river, except the land at the time of the passing of this Act occupied by the Government Salt Golahs, and all land other than land with regard to which Government has the right of assessment only within the limits of the port included in any survey plot through which a line drawn fifty yards above high-water mark passes.

THE SECOND SCHEDULE.

(*Referred to in section 27.*)

RECEIPT FOR GOODS.

By the Port Commissioners, Chittagong.

Landed during the day of from the , by the Port Commissioners, Chittagong, the noted in the margin; contents and state of the contents unknown.

NOTE.—*If there be any apparent injury, this is to be stated.*

A. B.,

For the Port Commissioners, Chittagong.

CHITTAGONG.
The day of

THE THIRD SCHEDULE.

(*Referred to in section 72.*)

FORM OF DEBENTURE.

THE COMMISSIONERS OF THE PORT OF CHITTAGONG.

No. *The* *188* .

By virtue of the Act No. IV of 1887 of the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations, entitled the Chittagong Port Commissioners' Act, 1887, we, the Commissioners of the port of Chittagong, in consideration of the sum of Rs. paid to us by *A. B.*, of , promise to pay to the said , or order, the said sum of Rs. after the date hereof, together with interest at the rate of per centum per annum payable half-yearly on the day of and the day of

Given under our corporate seal this day of 188 .

Signatures of the Chairman and two Commissioners.

Seal. *of the Commissioners.*

ACT No. V OF 1887.

Received the Lieutenant-Governor's assent on the 26th March, 1887, and the Governor General's assent on the 11th May, 1887.

An Act for the regulation of the Rural Police in the Chota Nagpore Division.

WHEREAS it is expedient to make provision for the appointment, dismissal, maintenance and duties of village-policemen and road-patrols in the Chota Nagpore Division; It is enacted as follows:— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called the Chota Nagpore Rural Police Act, 1887. Short title.
It extends to the districts of Hazáribágh and Lohardugga, and shall come Extent.

Commencement.

into force from the date[a] on which it may be published in the Calcutta Gazette with the assent of the Governor General.

Lieutenant-Governor may further extend the Act.

The Lieutenant-Governor may, by a notification published in the Calcutta Gazette, extend this Act, or any part thereof, to any other district in the Chota Nagpore Division, or to any specified part of such district from a date to be mentioned in such notification,[b] and may by a like notification withdraw any district or any specified part of a district from the operation of this Act, or any part thereof, from a date to be mentioned in such notification.

Interpretation-clause.

2. In this Act, unless there be something repugnant in the subject or context,—

"Circle."

"circle" means a group of villages allotted to one circle-tahsildár for the collection of assessments under Part II of this Act:

"Circle-tahsildár."

"circle-tahsildár" means the person entrusted with the collection of the assessments for the payment of village-policemen under this Act:

"Deputy Commissioner."

"Deputy Commissioner" includes the Deputy Commissioner of the district and any officer appointed by the Lieutenant-Governor to perform the functions of a Deputy Commissioner under this Act:

"Road-patrol."

"road-patrol" includes ghátwals, digwars and all other persons, by whatever name they may be called, who are engaged in the performance of the duties assigned by this Act to road-patrols:

"Under-tenure."

"under-tenure" includes also jagir, khur-o-posh, mukarari and thika:

"Village."

"village" includes a group of villages:

"Village-policeman."

"village-policeman" includes chaukidárs, goraits, and kotwars:

"Zamindár."

"zamindár" means the person whose name is registered in the general register of lands paying revenue directly to Government as the proprietor of an estate so paying revenue, or the person whose name is registered in the general register of revenue-free lands as proprietor of a revenue-free tenure.

PART II.

VILLAGE-POLICE.

Deputy Commissioner to determine number of circles and village-police

3. The Deputy Commissioner shall determine the number of circles into which his district shall be divided for the purposes of this Act, and the respective limits of such circles and the number of village-policemen to be ap-

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[a] i.e., the 25th May, 1887.

[b] Parts I, II and IV of the Act have been extended to the Govindpur and Purulia thanas of the district of Manbhoom with effect from the 1st May, 1888—see Notification dated 21st March, 1888, in Calcutta Gazette, 28th *idem*, Pt. I, p. 238.

pointed for each village within each circle, and shall appoint a circle-tahsildár for each circle:

and appoint circle-tahsildárs.

Provided that there shall be at least two village-policemen appointed for every village in which there are one hundred and fifty houses, and one additional village-policeman for every complete number of one hundred houses beyond such number of one hundred and fifty.

Joining of two or more villages under one village-policeman.

4. Where there are fewer than seventy-five houses in a village, and some house in such village is situated within one mile of some house in another village, the Deputy Commissioner may join such villages together, and appoint one village-policeman for two or more villages:

Provided that, where two or more villages are joined together, one village-policeman shall not have charge of more than one hundred and twenty-five houses.

Deputy Commissioner to determine salaries of village-policemen.

5. The Deputy Commissioner shall from time to time determine the monthly salaries of the village-policemen:

Provided that such salaries shall not be less than two nor more than four rupees per mensem for each village-policeman:

Provided also that in determining such salaries the Deputy Commissioner shall take into consideration the value of the chakran lands (if any) held by a village-policeman.

Certain zamindárs and under-tenure-holders liable to pay salaries of village-policemen.

6. Wherever any zamindár or under-tenure-holder holds subject to the condition, expressed or implied, of maintaining the village-police within his zamindári or under-tenure, he shall be liable to pay the amount determined by the Deputy Commissioner under the last preceding section.

Salaries to be raised by assessment and persons liable to assessment.

7. In cases other than those referred to in the last preceding section, the amount required for the salaries of the village-policemen, together with a sum not exceeding three and a half annas in the rupee of such amount to provide for payment of the expenses of collection and losses from the non-realisation of sums from defaulters, shall be assessed on each village;

and all owners or occupiers of houses in any village, and every zamindár or under-tenure holder who has a bhander or kachahri for the collection of rent within the village, shall be liable to assessment for the purposes of this Act.

Method of assessment.

8. The amount payable by each village shall be fixed by the Deputy Commissioner, and thereupon the tahsildár of the circle to which each such village belongs shall prepare a list showing the amount payable monthly by each person liable to assessment in such village.

Such list, when sanctioned by the Deputy Commissioner, shall be published at some conspicuous place within the village, and shall remain in force until altered by the Deputy Commissioner:

Provided that, if two-thirds of the adult male inhabitants of any village apply to the Deputy Commissioner to appoint a pancháyat in the place of the circle-tahsildár he shall appoint a pancháyat, consisting of not less than three nor more than five persons, and such pancháyat shall, as far as such village is concerned, perform the duties of a circle-tahsildár under this Act.

Nature and amount of assessment.

9. The amount at which each person is assessed under the last preceding section shall be fixed according to the circumstances and the property to be protected of such person:

Provided that the amount to be assessed on any one person shall not exceed one rupee per mensem in the case of a zamindár, under-tenure-holder or trader, nor eight annas per mensem in the case of an ordinary raiyat:

Provided also that all persons who, in the opinion of the Deputy Commissioner are too poor to pay half an anna per mensem shall be exempted from assessment.

Alteration of assessment.

10. The Deputy Commissioner may from time to time alter the amounts assessed on any village.

Notice of such alteration shall be given to the tahsildár of the circle to which such village belongs before the month of *Magh* in the year preceding the year in which the alteration is to take effect.

When any such alteration is made, the circle-tahsildár shall prepare and submit revised lists of the sums payable by each person.

Power to confirm, amend or remit assessment.

11. Any person dissatisfied with the amount at which he has been assessed may apply to the Deputy Commissioner, either orally or in writing, for a revision of the assessment, and the Deputy Commissioner may confirm, amend or remit the assessment.

Assessment payable quarterly in advance.

12. Every sum due under section 6 of this Act, and every assessment under section 7 of this Act, shall be paid by equal quarterly instalments, and the instalments on account of each quarter shall be due on the first day of such quarter, the quarter being reckoned according to the year in current use in the district.

Collection of assessment.

13. The circle-tahsildár shall collect from each village in his circle within the first month of each quarter the amount payable by each of the persons assessed in such village, and shall grant printed receipts for the same, and shall pay the amount so collected to the District Superintendent of Police, who shall place the sum so received by him to the credit of the chaukidári fund in the district treasury.

Payment of village-policemen.

14. The District Superintendent of Police shall remit, before the fifteenth of each month, to the sub-inspector of Police of each tháná, the pay due to all village-policemen appointed under this Act in villages situated within the

local area of such thánâ on account of the month next preceding, and it shall be the duty of such sub-inspector of police to hand over to each village-policeman at the thánâ the pay due to him on account of the next preceding month, and to take a receipt for the same.

Application for attachment on failure to pay assessment.

15. Whenever any person assessed under this Part fails to pay the amount due by him for any quarter before the end of the first month of such quarter, the circle-tahsildár shall apply to the Deputy Commissioner for the attachment and sale of any moveable property belonging to such person.

Power to distrain for arrears.

16. The Deputy Commissioner shall thereupon issue a writing in the form in Schedule A hereto annexed, signed by him, authorizing the circle-tahsildár, or such other person as may be therein named, to levy, by the distraint and sale of a sufficient portion of the moveable property of such defaulters, other than plough-cattle and tools and implements of trade or agriculture, the amount of their respective arrears, together with sums equal to a proportionate share of the cost of the distraint and sale.

Manner of executing distress.

17. The person so authorized shall seize and keep in his own custody such portion of the moveable property of such defaulters as he shall deem sufficient, and shall make an inventory of all moveable property so seized, and shall at the same time give notice by beat of drum of the time and place where it shall be sold.

The time of sale shall not be less than five nor more than ten days from the time of the proclamation thereof.

Sale in execution of warrant.

18. If any defaulter does not, within the time specified in such notice, pay the amount payable by him with his share of the costs, the moveable property distrained, or such portion of it as may be necessary, shall be sold by public outcry at the time and place specified, and the proceeds shall be applied in discharge of the amount so payable, and the costs and the surplus, if any, shall be returned to the owner of the distrained property.

Defaulter disputing liability may apply to Deputy Commissioner.

19. Whenever any person whose name has been included in any list of defaulters disputes his liability to pay the amount mentioned in such list or any portion thereof, he may apply to the Deputy Commissioner either orally or in writing, stating the grounds of his objection, and the Deputy Commissioner shall examine his objection and pass such order thereon as to him shall seem proper.

Distress not to be levied after a year.

20. No arrears of any assessment payable under this Act shall be levied by distress after the expiration of one year from the day on which the same shall have become due.

Irregularities not to avoid distress.

21. No distress levied under this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any defect

or want of form in any list, assessment-notice, summons, power, writing, inventory or other proceeding relating thereto, nor shall such party be deemed a trespasser from the commencement on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularities may recover full satisfaction for any special damage sustained by them in any Court of competent jurisdiction, subject to the provisions of section 34 of this Act.

Duties of village-policeman.

22. Every village-policeman appointed under this Act shall perform the following duties:—

1st.—He shall give immediate information to the officer in charge of the police-station, within the limits of which the village of which he is village-policeman is situated, of every unnatural, suspicious or sudden death which may occur, and of every offence specified in Schedule B hereto annexed which may be committed within such village, and he shall further keep the police informed of all disputes which are likely to lead to any riot or serious affray.

2nd.—He shall arrest all proclaimed offenders and all persons whom he may find in the act of committing any offence specified in Schedule B hereto annexed.

3rd.—He shall observe, and from time to time report to the officer in charge of the police-station within the limits of which such village may be situated, the movements of all bad characters in such village.

4th.—He shall report to the officer in charge of such police-station the arrival of suspicious characters in the neighbourhood.

5th.—He shall present himself at such police-station twice in each week if it be within two miles of such village, and, if it be more remote, once in each week or once in each fortnight, as the Deputy Commissioner may direct.

6th.—He shall supply any local information which the Deputy Commissioner or any officer of police may require.

7th.—He shall obey the orders of the Deputy Commissioner in regard to keeping watch in the village and other matters connected with his duties as village-policeman.

Procedure on arrest by village-policeman.

23. Whenever a village-policeman arrests any person, he shall forthwith take the person so arrested to the police-station within the limits of which the village of which he is village-policeman is situated:

Provided that, if the arrest is made at night, such person shall be so taken as soon as convenient on the following morning.

PART III.

ROAD-PATROLS.

24. As soon as may be after the commencement of this Act the Deputy Commissioner shall prepare a list showing what zamindárs or under-tenure-holders within his district hold their tenures subject to a condition, expressed or implied, of protecting lines of roads or passes, and shall fix the number of road-patrols to be kept up for such roads or passes, and the salary to be paid monthly to each road-patrol:

List of zamindárs and under-tenure-holders liable for maintenance of road-patrols to be prepared.

Provided that such salary shall in no case be less than three nor more than five rupees per mensem.

25. A copy of the entry in such list affecting him shall be given to each such zamindár or under-tenure-holder.

Copy of entry to be given to each zamindár or under-tenure-holder.

If any zamindár or under-tenure-holder is dissatisfied with such entry, he may appeal, within thirty days of the receipt of the copy of the entry, to the Commissioner, who shall pass such order as to him seems proper.

26. When any land is held under any zamindár or under-tenure-holder by any road-patrol in lieu of, or in addition to, his salary for the protection of any road or pass, the zamindár or under-tenure-holder who is responsible for the protection of such road or pass shall, if assessed under section 24 of this Act, be entitled to receive rent for such land at the same rate as is paid for similar raiyatwari land in the vicinity.

Zamindárs and under-tenure-holders entitled to receive rent for land held by road-patrol in lieu of, or in addition to, his salary.

An order under the hand of the Deputy Commissioner in the form in Schedule C hereto annexed shall be furnished to such zamindár or under-tenure-holder.

27. All zamindárs and under-tenure-holders specified in the list mentioned in section 24 of this Act shall pay the amount entered therein against their names to the District Superintendent of Police monthly, who shall pay the same to the road-patrols to whom it may be due.

Payments to whom to be made.

28. If the amount due from any zamindár or under-tenure-holder for any month is unpaid after the fifteenth day of the next succeeding month, the Deputy Commissioner shall issue a notice calling on the defaulting zamindár or under-tenure-holder to pay the same, together with the costs of serving the notice, within fifteen days from the service of the notice.

Procedure on default of payment.

29. If the amount specified in the notice is not paid within fifteen days, the Deputy Commissioner may attach the holding of such zamindár or under-tenure-holder, and retain possession of the same until such amount has been recovered out of the income derivable therefrom.

Attachment of zamindári or tenure.

Duties of road-patrols.

30. Every road-patrol appointed under this Act shall perform the following duties :—

1st, he shall patrol the roads within his beat under instructions from the District Superintendent of Police, and shall protect all travellers passing along his beat;

2nd, he shall arrest all proclaimed offenders, and all persons whom he may find in the act of committing any offence specified in Schedule B hereto annexed, and shall forthwith take the person so arrested to the police-station within the limits of which he acts as road-patrol;

3rd, he shall report to the officer in charge of the police-station within the limits of which his beat is situated the movements of all bad or suspicious characters along his beat, as well as all unusual circumstances that come to his notice;

4th, he shall supply any local information which the Deputy Commissioner or any officer of police may require.

PART IV.

MISCELLANEOUS.

Power to appoint and dismiss village-policeman or road-patrol.

31. Subject to the approval of the Deputy Commissioner, the District Superintendent of Police may appoint, and for any misconduct or neglect of duty may dismiss, any village policeman or road-patrol.

Penalty for village-policeman and road-patrol withdrawing from his duties, &c.

32. Every village-policeman or road-patrol who shall withdraw himself from the duties of his office without the express permission of the District Superintendent of Police, or of some other officer duly authorized to grant such permission;

and every village-policeman or road-patrol who shall resign his office without the permission of the said District Superintendent, unless he has given to his superior officer, at least two months previously, a written notice of his intention to resign;

and every village-policeman or road-patrol who shall be guilty of cowardice or who shall offer any unwarrantable personal violence to any person in his custody,

shall be liable, on conviction before a Magistrate, to a fine not exceeding three months' pay or to imprisonment, either simple or rigorous, for a period not exceeding three months, or both.

Power to fine

33. Every village-policeman or road-patrol who is guilty of any wilful

misconduct in his office or neglect of his duty, such misconduct or neglect not being an offence within the meaning of the Indian Penal Code,[a] and not being of so grave a character as, in the opinion of the District Superintendent of Police, to require his dismissal from his office, shall be liable, under the order of the District Superintendent, to a fine not exceeding one month's salary.

XLV of 1860.

village-policeman or road-patrol.

34. Every suit brought against the Deputy Commissioner, or any of his officers, or against any person acting under his direction, for anything done or purporting to be done by them under this Act, shall be commenced within four months next after the accrual of the cause of action, and not afterwards.

Suits to be brought within four months of accrual of cause of action.

35. The Lieutenant-Governor may, if he thinks fit, appoint any officer to perform the functions of a Deputy Commissioner under this Act.

Lieutenant-Governor may appoint officer to perform functions of Deputy Commissioner.

36. Every notice under this Act shall be served either personally on the person to whom the notice is directed, or by affixing a true copy thereof on some conspicuous part of his dwelling-house or principal kachahri within the district.

Service of notices

37. Nothing contained in this Act shall diminish or in any way affect any liability, duty or obligation of any zamindár or other landholder, under any law for the time being in force, to report crimes or offences occurring within his estate or tenure.

Saving of liability of zamindár to report crimes.

38. Act VIII (B. C.) of 1878 (*the Hazáribágh and Lohardugga Rural Police Act*) is hereby repealed, and section 21 of Bengal Regulation XX of 1817[b] is hereby repealed so far as it affects any place to which this Act applies.

Repeal of Ben. Act VIII of 1878.

SCHEDULE A.

(*See section 16.*)

Form of Distraining Warrant.

Act V (B. C.) of 1887.

On behalf of of . Whereas the several persons named in the list at foot hereof have made default in payment of the sums in the said list set opposite to their respective names, you, , are hereby authorized and required to levy, by distress and sale of a sufficient portion of the moveable property of the said defaulters, the said several sums set opposite to

[a] See General Acts, 1834—66, 2nd Ed., p. 240.

[b] See Vol. I, p. 134.

SCHEDULE A—*continued.*

their respective names, together with additional sums by way of costs as set forth.

(Sd.)
Deputy Commissioner.

Name and description.	Amount.	When due.	Costs.	Total.

SCHEDULE B.

(*See sections 22 and 30.*)

OFFENCES TO BE REPORTED AND FOR WHICH VILLAGE-POLICEMAN OR ROAD-PATROL MAY ARREST.

Murder, culpable homicide, rape, dacoity, robbery, theft, mischief by fire, house-breaking, counterfeiting coin, causing grievous hurt, riot, and all attempts and preparations to commit, and abetments of the said offences.

SCHEDULE C.

(*See section 26.*)

FORM OF TRANSFERRING ORDER.

District of .

I , Deputy Commissioner of , do by this order under my hand, made in pursuance of Act V of 1887 of the Lieutenant-Governor of Bengal in Council, declare that , zamindár (or under-tenure-holder, as the case may be), of , is entitled to receive rent at the same rate as is paid for similar raiyatwári land in the vicinity, for the lands specified below and lately held by

SCHEDULE C—*continued.*

in consideration of his performing the duties of a road-patrol.

Specification of land.

Village
Pergunnah
Boundaries
Area

(Sd.)
Deputy Commissioner.

The *day of* 18 . .

ACT No. I OF 1888.

Received the Lieutenant-Governor's assent on the 16th May, 1888, and the Governor General's assent on the 27th June, 1888.

An Act to amend the Bengal Municipal Act, III of 1884.

WHEREAS it is expedient to amend Bengal Act III of 1884: It is hereby enacted as follows:— Preamble.

1. This Act shall be read with, and taken as part of, Bengal Act III of 1884; and it shall come into force from the date[a] on which it may be published in the Calcutta Gazette with the assent of the Governor General. Construction and commencement of Act.

2. To section 9, the following proviso shall be added: —

[See *supra*, p. 672.]

THE CALCUTTA MUNICIPAL CONSOLIDATION ACT, 1888.

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15. For the purpose of election, the town to be divided into wards.
16. If any ward fails to elect, Local Government may appoint.
17. Procedure if a person is elected a Commissioner in more than one ward.
18. Procedure in case of candidates receiving an equal number of votes.
19. Time and mode of election.
    Local Government to make rules for regulating matters connected with elections.
20. Preparation of list of voters.
21. Applications for correction of list of voters.
22. Correction of list of voters by the Chairman.
23. Appeal from the decision of the Chairman.
24. Persons voting on behalf of Hindu joint-families, companies, firms or other associations of persons to be entered on the list.
25. In case of dispute, Chairman to decide who is to vote for a Hindu joint family, company, firm or other association of persons.
26. Government not to vote.
27. Chairman may delegate another to act under sections 21 and 25.
28. Commissioners in meeting may appoint a person to act for the Chairman under sections 21 and 25.

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29. Improper omission or insertion of names in the list not to affect an election.
30. Commissioners to be appointed or elected for three years.
31. Preparation of list of candidates.
32. Disqualification of Commissioners.
33. Bye-elections.
34. Penalty for taking a bribe.
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35. Application of municipal property and funds.
36. Objects to which municipal property and funds are applicable.

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37. Duties of Commissioners.
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39. Appointment and removal of Chairman of the Commissioners.
40. Appointment of Vice-Chairman.
41. Appointment of Secretary, Engineer, Surveyor, Health-officer, Collector and Assessor.
42. Chairman and Vice-Chairman not to engage in any profession or trade.
43. Allowances of Chairman and Vice-Chairman.
44. Salaries of officers.
45. Appointment and remuneration of subordinate officers and servants.
46. Power to suspend or fine officers appointed under section 41 or the last preceding section.
47. Commissioners in meeting to grant leave of absence with sanction of Local Government.
48. Allowances during absence on leave.
39. Commissioners in meeting may make rules for allowances, pensions and gratuities to their officers and servants.
50. Officers not to be interested in contracts made with the Commissioners.
51. Commissioners, officers, servants, contractors and agents to be deemed to be public servants.

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52. Ordinary and special meetings.
53. What business to be transacted at meetings.
54. All questions to be decided at meetings by majority of vote.
55. Who to preside at meetings.
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60. Chairman or Vice-Chairman to attend daily for the transaction of business.
61. Powers of the Chairman.
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62. Mode of contracting by, and on behalf of, the Commissioners.
63. Election and appointment of General Committee.
64. Duties of the General Committee.
65. Appointment of Standing and Special Committees.
66. Duties of Committees.
67. Power of Committees to appoint Sub-Committees.
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70. Budget of expenditure.
71. Passing of budget and fixing of rates.
72. Accounts to be audited and examined.
73. Powers of auditors.
74. Penalty.
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76. Ten days' notice of audit to be given.

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77. Tax on carriages and animals.
78. Owners of carriages or animals to take out license.
79. On payment of tax, Commissioners to grant license.
80. Penalty.
81. Commissioners may compound for carriages with livery-stable keepers and others.
82. Penalty.
83. Power to compel production of the books of livery-stable keepers.
84. Power to inspect stables and seize carriages and animals if tax unpaid and owner unknown.
85. Disposal of carriages and animals seized.
86. List of persons licensed to be entered in a book.

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87. Persons exercising certain professions, trades and callings in the town to take out a license.
88. License to be granted by Commissioners and to specify particulars.
89. Liability and class how to be determined.

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90. Penalty for exercising trade or profession without a license.
91. Commissioners may require list of persons in any house.
92. Penalty.
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94. Registry and numbering of carts.
95. Penalties.
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102. Appropriation of the water-supply fund.
103. Appropriation of the lighting fund.
104. Appropriation of the sewage fund.
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107. Rate by whom and when payable.

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108. If assessment be made at a higher annual value than the amount paid by the occupier, owner may recover difference from him.
109. Refund of owner's share of consolidated rate.
110. No refund unless application be made within six months from vacancy.

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111. Refund of occupier's share of consolidated rate when house ceases to be occupied.
112. No refund of rates unless application made within six months from vacancy.
113. Rate payable on house or land becoming occupied.
114. Person sub-letting to different persons to be deemed occupier.
115. Power to impose entire rate on owner in certain cases.

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116. Owner to recover from occupier rate paid by owner.
117. Imposition of consolidated rate in the case of bustee land
118. Owner to recover from occupier rates paid by owner.
119. Owner to have same power for recovering rates as for recovering rent.
120. Occupier of house or land may be required to furnish name of owner.
121. On failure, occupier liable to owner's rates.

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124. Bustee lands may be valued annually.
125. Intermediate valuation in certain cases.
126. When substantial improvement made, Commissioners may re-value.
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128. Annual value fixed to be entered in a book.
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129. New valuations or measurement to be made.
130. Returns may be required for purpose of valuation.
131. Penalty.
132. Public notice of valuation to be given.
133. Notice when valuation made for first time or increased.
134. Notice to be given before re-valuing bustee-land.
135. Person dissatisfied with valuation to give notice of objection.
136. Objection to be entered in register and to be investigated and determined by Chairman or Vice-Chairman.
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146. Rate due from owner may be recovered from occupier and deducted by him from his rent.
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148. Distress not unlawful for want of form.
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155. Householder entitled to certain supply of water for domestic use.
156. Commissioners may provide filtered or unfiltered water for latrines.
157. All latrines and water-closets to be provided with cisterns.
158. Communication-pipes to be made of required dimensions and at expense of householder.
If ferrule prescribed by schedule insufficient, Commissioners shall permit use of larger ferrules.
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159. Communication-pipes, works and fittings must be made to satisfaction of the Commissioners.
160. Power to enter premises.
161. When pipes are out of repair, Commissioners may cut off or turn off water.
162. Water may be turned off or cut off on neglect to pay the rate.
163. Occupier in whose house water is wasted liable to penalty.
164. Person causing waste of water liable to penalty.
165. Commissioners at their discretion may allow person outside the town to take water.
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166. Person executing any work for laying on water must hold a license from the Commissioners.
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167. Penalty on owner or occupier causing work for laying on water to be executed by unlicensed plumber.
168. Before connection, Engineer of the Commissioners to cause all works and pipes to be inspected.
169. Connection with service pipes to be executed only by an officer of the Commissioners.
170. Penalty on licensed plumber who executes works badly.
171. Penalty on person unlawfully flushing, drawing off, diverting or taking water.
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183. Commissioners to have register-books prepared and numbered.
184. Registrar to inform himself of, and register, births and deaths.
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219. Doors not to open outwards.
220. Gutters and pipes to be fixed to houses.
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221. Projections erected in future from houses to be removed.
222. Removal of existing projections from houses.
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223. Commissioners may allow certain projections from houses.
224. Roofs and external walls of huts not to be made of inflammable materials.
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225. Commissioners may direct hedges to be trimmed.
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227. Situation of gas and water pipes may be altered by Commissioners.
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229. No one to deposit materials or make holes in a public street.
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235. Plan of site to be submitted before beginning to build a house.
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237. Within thirty days after receipt of application, Commissioners to sanction or disallow buildings, or for specified reasons to call for further information.
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239. Ground plan and application may be submitted together.
240. Power to demolish a building commenced without submission of a ground plan or without the site being approved.
241. Power to demolish or alter a building for failure to comply with sections 236 or 237.
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250. If Commissioners fail to pass orders, the person making application may proceed to build or re-build the house.
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259. Commissioners may carry out works if owners or occupiers refuse.
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260. Sale of huts.
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263. Provisions as to standard plan.
264. Effect of notice of intention to change character of bustee land.
265. Roads in standard plan, if not public streets, remain private.
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267. Owners of a bustee, when standard plan is prepared, deemed occupiers of the open spaces.
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276. Penalty for altering or making unauthorized drains leading into public sewers.
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278. Commissioners may construct certain portions of drains under public drains and streets.
279. Sewage and rain-water drains to be distinct.
280. Underground drains connected with the sewers to be made under a license.
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283. Commissioners may require the owner of a drain to allow another to use it.
284. Sewers in streets to be covered with traps.
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286. Branch drains, privies, cess-pools, stables and cow-houses to be under the control of the Commissioners, and to be kept in good order by owners.

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287. Obstructions in private drains to be removed.
288. Commissioners may alter any branch drain, privy, cess-pool, stable or cow-house made contrary to their order.
289. Penalty for persons making or altering drain contrary to the orders of Commissioners.
290. Inspection of branch drains, privies, cess-pools, stables or cow-houses.
291 Penalty for throwing rubbish or permitting any offensive matter or sewage to flow or be put into sewers.
292. No latrine to be constructed within fifty feet of a tank.
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294. Commissioners may cause additional privies to be provided for any land.
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303. Removal of sewage or offensive matter.
304. Penalty.
305. Places of deposit for rubbish or offensive matter.
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325. Disinfecting of buildings.
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327. Place for disinfection may be provided.
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330. Infected articles not to be transmitted without previous disinfection.
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334. Commissioners in meeting may take special measures in outbreak of any epidemic disease.
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346. Certain offensive and dangerous trades carried on in Calcutta to be registered.
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355. Power to grant licenses for markets.
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359. Commissioners in meeting may define limits of markets.
360. Commissioners in meeting may require roads in markets to be made.
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375. Registers of burials and cremations to be kept.
376. Penalty.
377. Unauthorized places not to be used for burial or burning.
378. Commissioners in meeting may provide burial and burning grounds and fix fees.
379. No vault or burial or burning place henceforth to be constructed without leave of the Commissioners.
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381. Commissioners in meeting to issue certificates prohibiting the use of improper burial and burning places.
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435. Service of notice on owners and occupiers of house and land.
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438. Estimate of cost of work to be given on application.
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440. Commissioners, in default of owner or occupier, may execute works and recover expenses.
441. Power to levy charges on occupier, who may deduct the same from his rent.
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446. Occupier, in default of owner, may execute works and deduct expenses from his rent.
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THE FOURTH SCHEDULE.—TAX ON CARRIAGES AND ANIMALS.

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THE TWELFTH SCHEDULE.—FORM OF DEBENTURE.

THE THIRTEENTH SCHEDULE.—TRANSITORY PROVISIONS.

ACT No. II OF 1888[a].

Received the Lieutenant-Governor's assent on the 18th May, 1888, and the Governor General's assent on the 12th September, 1888.

An Act to consolidate and amend the law relating to the Municipal Affairs of the Town and Suburbs of Calcutta.

WHEREAS it is expedient to extend the municipal limits of Calcutta, and to consolidate and amend the law relating to the municipal affairs of the Town and Suburbs of Calcutta; It is hereby enacted as follows :— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be cited as the Calcutta Municipal Consolidation Act, 1888. Short title.

And it shall come into force on the 1st day of April, 1889. Commencement.

But any election may be held under the provisions of this Act at any time after it shall have received the assent of the Governor General, and such election thus held shall take effect from the first day of April, 1889.

And section 461, and schedule referred to therein, shall come into force from the first day of January, 1889.

2. The enactments specified in the first schedule are hereby repealed to the extent mentioned in the third column thereof. Enactments repealed.

This repeal shall not revive any office, authority or thing abolished by any such enactment, or affect the validity of anything done or suffered, or any right, title, obligation or liability which may have accrued before the commencement of this Act.

And all bye-laws or rules prescribed, budgets passed, assessments, valuations, measurements, divisions and appointments made, powers conferred, salaries fixed and notifications published under any such enactment, and all other rules (if any) now in force and relating to the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, passed, made, conferred, fixed and published hereunder.

And all references made to any such enactment shall, as far as may be practicable, be deemed to be made to this Act.

And all proceedings now pending, which may have been commenced under any such enactment, shall be deemed to be commenced under this Act.

[a] This Act has, so far as regards the jurisdiction, and the decisions, orders and other proceedings of Appellate Benches of Municipal Authorities, Magistrates, Courts of Small Causes and Judges of those Courts, been declared to be as valid as if it had been passed by the Governor General in Council—see Act XII of 1888, s. 1, Vol. I, p. 595.

In respect to all the matters aforesaid, the "Commissioners of Calcutta" under this Act shall be substituted for the "Commissioners of the Town of Calcutta."

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

"Bázár."

"bázár" means any place of trade, where there is a collection of shops and warehouses, and any place where a market is held;

"Bustee land," "hut" and "house."

Whenever a separate procedure is prescribed for dealing with bustee land and the hut standing on it, by the term "bustee land" is meant land which the owner lets out for the building of huts, in such manner that the tenant of the land is the owner of the hut: and "hut" includes any structure erected on such land, whether roofed with tiles or otherwise, and whether constructed with bricks, earth or other materials: "house" means any structure erected upon land the property of the owner of such structure, or for the use of which land the owner of the house holds a lease for not less than ten years. In the case of lands or buildings to which neither of these descriptions correctly applies, the Commissioners shall determine which of the two procedures can most equitably be applied, and shall classify the land and buildings accordingly:

"House."

when no separate procedure is prescribed, and when the contrary is not indicated by the context, "house" shall include a hut, shed or any other structure;

"Bustee."

a "bustee" means a plot of bustee land, not less than ten cottahs in area, bearing one number in the assessment-book, or a collection of such plots adjacent to one another exceeding in the aggregate one bigha in area:

"Calcutta."

"Calcutta," subject to the inclusion or exclusion of any local area by the Local Government under section 458, includes the area bounded as follows:—

by a line drawn along the southern and western bank of the Circular Canal from the river Hooghly to the south of Balliaghatta, till it meets the Pagladanga Road; thence along the eastern edge of the Pagladanga Road to a point where it meets the Chingrahatta Road; thence along the southern edge of the Chingrahatta Road to a point where it meets the south Tangor Road; thence along the eastern edge of the south Tangor Road to a point where it meets the Topsea Road; thence along the eastern edge of the Topsea Road to its junction with the Tiljullah Road; thence westward to the South-Eastern Railway, then southward along the western edge of the line of the Railway, and westward along the south of the new embankment to the Russapugla Road; thence along the eastern edge of the Russapugla Road to

its junction with the Road leading to the Tollygunge Bridge, thence along the southern edge of this road and its continuations, the Sharpore Road, the Goragachee Road, and the Taratollah Road, to Nimuck Mahál Ghát, where it joins the Hooghly; and thence along the left bank of the Hooghly to its junction with the Circular Canal:

but from this area there shall be excluded—

(1) Fort William;

(2) the Esplanade;

(3) that part of Hastings north of the south edge of Clyde Row, which has hitherto been excluded from the Municipality of the Town of Calcutta:

"carriage" means any wheeled vehicle with springs used for the conveyance of human beings and ordinarily drawn by an animal: "Carriage."

"cart" means any cart, backery or wheeled vehicle with or without springs, not included in the definition of "carriage:" "Cart."

"depôt" means a place where bulky articles are stored, whether for sale or otherwise, in quantities exceeding fifty maunds: "Depôt."

"drug" includes medicine for internal or external use: "Drug."

"market" includes any place where persons periodically assemble for the sale of meat, fish, vegetables or live-stock: "Market."

"offensive matter" means dung, dirt, putrid or putrefying substances and filth of any kind not included in the term "sewage:" "Offensive matter."

"owner" includes— "Owner."

(*a*) the person for the time being entitled to receive, or in receipt of, any of the rent of the house or land in respect of which the word is used;

(*b*) an agent of such person;

(*c*) a trustee for such person;

but no such agent or trustee shall be liable to do anything required by this Act to be done by the owner, nor shall he be subject to any fine for omitting to do such thing, unless he have sufficient funds in his hands as such agent or trustee to do such thing:

"public street" means any road, street, square, court, alley or passage, whether a thoroughfare or not, over which the public have a right of way, and also the roadway over any public bridge or causeway, and also the footway and drains attached to any such street, public bridge (other than the Hooghly bridge) or causeway, within the town: "Public street."

"rubbish" means broken bricks, mortar, broken glass, kitchen or stable refuse and refuse of any kind not included in the term "offensive matter:" "Rubbish."

"Sewage."

"sewage" means night-soil and other contents of privies, drains and cess-pools:

"Street."

"street" means any road, street, square, court, alley or passage not included in the definition of "public street:"

"Railway."

"railway" includes a tramway:

"Schedule."

"schedule" means a schedule annexed to this Act:

"Section."

"section" means a section of this Act:

"Slaughter-house."

"slaughter-house" means any place used for the slaughter of cattle, sheep, goats, pigs or kids, for the purpose of selling the same as meat:

"The Commissioners."

"the Commissioners" means the Corporation of Calcutta:

"Year."

"year" means a year beginning on the first day of April.

CHAPTER II.

Part I.—Of the Constitution of the Corporation.

Constitution of the Corporation.

4. The Commissioners of Calcutta shall consist of a Chairman, Vice-Chairman and seventy-five members to be appointed or elected as hereinafter provided, and shall by the name of the "Corporation of Calcutta" be a body corporate, and have perpetual succession and a common seal, and by such name shall sue and be sued.

The seventy-five members shall be male persons residing or paying rates in Calcutta who have attained the age of twenty-one years.

Property to vest in Commissioners for the purposes of this Act.

5. All property, moveable and immoveable, and all interests of whatsoever nature and kind therein now vested in, or held in trust for, the Commissioners of the Town of Calcutta, with all rights of whatsoever description now used, enjoyed or possessed by the said Commissioners, and all rights and interest in immoveable property situated within the area by this Act added to the Town of Calcutta which are now vested in, or held in trust for, the Commissioners of the Suburbs of Calcutta, shall become vested in the Commissioners of Calcutta.

Moveable property vested in the Commissioners of the Suburbs to be equitably divided.

6. All moveable property and all interests of whatsoever kind therein now vested in the Commissioners of the Suburbs shall be divided by the Chairman of the Commissioners of Calcutta and the Magistrate of the 24-Pergunnahs between the Commissioners of Calcutta, the Commissioners of the North Suburban Municipality, the Commissioners of the South Suburban Municipality and the Commissioners of such other municipality as may appear to be entitled, in such proportions as may to the Chairman and Magistrate seem fair and equitable.

If in making such division the Chairman and Magistrate disagree, or if the Commissioners of any of the municipalities concerned are dissatisfied in any respect with the division, the point or points in issue shall be referred to the Local Government, whose decision shall be final and binding.

Disputes regarding the equitable division of moveable property to be decided by Local Government.

7. Of the said seventy-five members, fifteen shall be appointed by the Local Government as soon as may be after the declaration of the result of the elections hereinafter provided shall have been published, and such appointment shall take effect from the date from which such election takes effect.

Number of Commissioners to be appointed by Local Government.

8. Of the remaining members, fifty shall be elected as hereinafter provided by male persons residing or paying rates in Calcutta who have attained the age of twenty-one years, and shall be qualified to elect in one of the following ways:—

Number of Commissioners and by whom to be elected.

(*a*) being the owner and occupier of any land or house in Calcutta separately numbered and valued for assessment purposes at not less than Rs. 150 per annum;

(*b*) being the owner of any land or house in Calcutta separately numbered and valued for assessment purposes at not less than Rs. 300 per annum;

(*c*) being the occupier of any house in Calcutta separately numbered and valued for assessment purposes at not less than Rs. 300 per annum;

(*d*) having taken out a license for the year in which the election is held under Class I, II, III or IV of the second schedule.

(*e*) having paid on his sole account and in his own name not less than Rs. 24 either in respect of rates levied under Chapter IV or in respect of taxes under Part I and Part II of Chapter III, or in respect of both such rates and taxes for the year preceding that in which the election is held;

And ten shall be elected in accordance with rules to be made from time to time by the Local Government for the purpose of regulating the election as follows:—

four by the Bengal Chamber of Commerce, four by the Calcutta Trades Association, and two by the Commissioners for making Improvements in the Port of Calcutta.

9. A person qualified to vote under clauses (*a*) or (*e*) of section 8 shall vote in the ward in which he resides or pays rates.

Ward in which votes to be given.

A person qualified under clause (*b*) of section 8 shall vote in the ward in which the property is situated.

A person qualified under clause (*c*) of section 8 shall vote in the ward in which he is an occupier.

A person qualified under clause (*d*) of section 8 shall, if he pays rates direct to the Commissioners for his place of business, vote in the ward in which his place of business is situated; if he does not pay rates for any place of business direct to the Commissioners, he shall vote in the ward in which he resides.

A person claiming to vote under clauses (*a*) or (*e*) of section 8 shall not be entitled to vote under any other clause, and may give two votes only in the ward in which he is entitled to vote under the last preceding section, or one vote only if only one Commissioner is to be elected.

Voting under section 8, clause (*b*).

10. A person qualified to vote under clause (*b*) of section 8 may give two votes in each ward in which he is entitled to vote, or one vote if only one Commissioner is to be elected for that ward; as well as additional votes according to the following scale:—

If the aggregate annual value of all the premises owned by him in the ward is not less than—

Rs.			
600	. .	1 additional	vote.
1,000	. .	2 ,,	votes.
1,500	. .	3 ,,	,,
2,000	. .	4 ,,	,,
2,500	. .	5 ,,	,,
3,000	. .	6 ,,	,,
3,500	. .	7 ,,	,,
4,000	. .	8 ,,	,,
4,500	. .	9 ,,	,,
5,000	. .	10 ,,	,,

Voting under section 8, clause (*c*).

11. A person qualified to vote under clause (*c*) of section 8 may give two votes in each ward in which he is entitled to vote, or one vote if only one Commissioner is to be elected for that ward, as well as additional votes according to the following scale:—

If the aggregate annual value of all the houses occupied by him in the ward is not less than—

Rs.			
600	. .	1 additional	vote.
1,000	. .	2 ,,	votes.
1,500	. .	3 ,,	,,
2,000	. .	4 ,,	,,

Rs.		
2,500	. .	5 additional votes.
3,000	. .	6 „ „
3,500	. .	7 „ „
4,000	. .	8 „ „
4,500	. .	9 „ „
5,000	. .	10 „ „

A person living in his own house is entitled to the votes assigned to him as owner as well as to those assigned to him as occupier.

Voting under section 8, clause (*d*).

12. A person qualified to vote under clause (*d*) of section 8 may, if he holds a license under Class IV of the second schedule, give two votes for the ward in which he may be entitled to vote under this qualification, or one vote if only one Commissioner is to be elected; if he holds a license under Class III, one additional vote; if under Class II, two additional votes; if under Class I, three additional votes.

A person may give as many votes as he is entitled to under clauses (*b*), (*c*) and (*d*) of section 8 combined, up to a maximum of ten additional votes in any one ward, but under no circumstances shall any person give more than twelve votes in any one ward, or eleven votes when there is only one Commissioner to be elected.

Meaning of "person" in sections 9, 10, 11 and 12.

13. In sections 9, 10, 11 and 12 the word "person" includes a Hindu joint-family, a company, firm or other association of persons who may be registered as the owners of any house or land, or as the occupiers of any house under clauses (*b*) and (*c*) of section 8 or may be stated in any license to be the holders thereof. Votes under clauses (*a*) and (*e*) of section 8 can only be claimed by a single individual paying the rates or taxes in his own name.

Qualification of Commissioners.

14. Any person qualified to vote under any of the preceding sections shall, subject to the provisions of section 32, be qualified to be elected a Commissioner for any ward in Calcutta:

Provided that his candidature is duly announced, and his name duly proposed, seconded and approved in the manner hereinafter provided;

Provided also that no officer of the Corporation while in office shall be eligible for election.

For the purpose of election, the town to be divided into wards.

15. For the purpose of the election of Commissioners, the town shall be divided into twenty-five wards, the boundaries of which are defined in the third schedule. The electors of each of the twenty-five wards may elect two Commissioners.

Every person qualified to vote may give all the votes to which he

is entitled in any ward to any candidate in such ward, or may distribute them amongst the candidates in such manner as he thinks fit.

The Local Government may, at any time, on the recommendation of the Commissioners in meeting, by a notification to be published in the Calcutta Gazette, alter the boundaries of any ward as defined in the said schedule.

If any ward fails to elect, Local Government may appoint.

16. If the electors of any ward shall elect but one Commissioner, or shall not elect any Commissioner, the Local Government shall appoint, in the former case, one Commissioner, and, in the latter case, two Commissioners.

Procedure if a person is elected a Commissioner in more than one ward.

17. If any person is elected a Commissioner for more than one ward, he shall, within five days from the date of the election, declare for which ward he will serve; and, if he fails to make such declaration, the Chairman shall forthwith declare the ward for which such person shall serve; and in either case such person shall be held to be elected in the ward in respect of which either of such declarations has been made; and thereupon the electors of the other ward or wards in which such person has been elected shall proceed to elect a Commissioner in the manner hereinafter provided.

Procedure in case of candidates receiving an equal number of votes.

18. Whenever an equal number of votes is given to two or more candidates at any election under this Act, the candidate for whom the greatest number of rate-payers have voted shall be held to be elected; and, in case of an equality of votes in this respect, the Chairman shall give a casting vote, and the candidate to whom such vote is given shall be held to be elected.

Time and mode of election.

19. The first election under this Act shall take place at the end of the year 1888-89, so that the result of the election may be declared on or before the thirty-first day of March, and the election shall take effect from the first day of April, 1889.

All subsequent general elections shall be held at intervals of three years, and shall take effect from the first day of April in the calendar year in which they are so held.

The votes at all elections shall be given personally at the polling stations.

Local Government to make rules for regulating matters connected with elections.

The Local Government may, from time to time, make rules not being inconsistent with this Act for the purpose of regulating all matters connected with elections, and may direct that voting at elections shall be by ballot, and may from time to time cancel or modify any rules so made.

The Local Government may declare the penalties which shall be incurred by the breach of any such rules:

Provided that no higher penalty than a fine of two hundred rupees shall be incurred by the breach of any such rules.

The expenses incurred in respect of all elections under this Act shall be paid out of the funds of the Corporation, and the result of all such elections shall be published in the Calcutta Gazette.

Preparation of list of voters.

20. The Chairman shall cause to be prepared from the registers in his office a list of all the persons qualified to vote under clauses (*b*), (*c*) and (*d*) of section 8, and of the number of votes to which they are respectively entitled, and shall publish such list at the Municipal Office and at such other places as he may think fit, or as the Commissioners in meeting may direct, not less than sixty days before the date fixed for each general election, and such list shall be obtainable on payment of a fee not exceeding eight annas.

Application for correction of list of voters.

21. Any person qualified under clauses (*a*) or (*e*) of section 8 may, within fifteen days after the publication of the list of voters, apply to the Chairman to have his name added thereto.

Any person whose name does not appear in the list, and who claims the right of voting under clauses (*b*), (*c*) or (*d*) of section 8 may, within fifteen days of the publication thereof, apply to the Chairman to have his name added to the list or substituted for any name on the list.

Any person claiming more votes than are allotted to him in the list may, within fifteen days after the publication thereof, apply to have more votes allotted to him, or to have votes allotted to any other person transferred to him:

Provided that no claim to vote as an owner under clause (*b*) of section 8 shall be entertained unless the name of the claimant is registered as such under section 128, and no claim to vote as an occupier under clause (*c*) of section 8 shall be entertained unless the name of the claimant is registered as such under section 128, or unless he can satisfy the Chairman that he has paid the rates as occupier for the quarter immediately preceding the quarter in which the claim is preferred.

No claim to vote under clause (*d*) of section 8 shall be entertained unless the license is taken out in the name of the claimant.

Any person who considers that any name in the list of voters prepared under section 20 ought to be omitted, or that the votes allotted to any person ought to be reduced, may, within fifteen days after the publication of the list, apply to have such name omitted or the number of votes reduced, as the case may be.

Correction of list

22. All applications for the revision of the list under the last preceding section shall be considered and decided by the Chairman with all reasonable

of voters by the Chairman.

despatch, and not less than fifteen days before the date of the election the Chairman shall publish a revised list in the same manner as the original list containing all the alterations or amendments made by his order or by order of the Magistrate under the next succeeding section in such original list.

Appeal from the decision of the Chairman.

23. Any person whose application under section 21 has been refused may, within eight days after such refusal, apply to a Presidency Magistrate for an order to have his name inserted in, or a name omitted from, or the number of votes allotted to any person altered in, the list of voters, and such Magistrate shall, after enquiry, make such order as to the insertion or omission of the name or as to the alteration of the number of votes allotted to any person as appears to him to be just; and the Chairman shall, upon receipt of a copy of such order, give effect to the same, and such order shall be final and binding.

The list thus prepared and amended shall remain valid for all bye-elections under section 33 during the interval of three years, and such list shall be obtainable on payment of a fee not exceeding eight annas:

Provided that at any time any person whose name is not in the list may apply to the Chairman to enter his name therein, and sections 22 and 23 shall be held applicable to such claim.

And, if such application is made not less than fifteen days before an election under section 33, it shall be decided in time for such election, but not otherwise.

Persons voting on behalf of Hindu joint families, companies, firms or other associations or persons to be entered on the list.

24. The Chairman shall, not less than thirty days before the date of election, send a letter to every Hindu joint-family, company, firm and other association of persons entitled to votes, requesting them to fill in a form, which shall accompany such letter, with the name of the person authorized to vote on behalf of such Hindu joint-family, company, firm or other association of persons, and to return the same within seven days. Upon receipt of the form, the Chairman shall cause the name stated therein to be entered in the revised list published under section 22, and the person whose name is thus entered in the revised list shall be deemed to be duly authorized to vote on behalf of the Hindu joint-family, company, firm or other association of persons which caused his name to be entered in the form until the contrary is proved.

In case of disputes, Chairman to decide who is to vote for a Hindu joint family, company, firm or other association of persons.

25. If the members of any Hindu joint-family, company, firm or other association of persons cannot agree amongst themselves as to who shall give the votes to which they are entitled, they may at any time, not less than five days before the date fixed for the publication of the revised list, apply to the Chairman to decide, and his decision shall be final and binding so far as regards the right of voting at the forthcoming election, but shall have no

other effect as regards the respective rights of the members of such Hindu joint-family, company, firm or other association of persons.

Government not to vote.

26. No vote shall be given by the Secretary of State for India in Council, the Government of India or the Local Government as owner or occupier of any house or land.

Chairman may delegate another to act under sections 21 and 25.

27. The Chairman may, with the sanction of the Commissioners in meeting, delegate to the Vice-Chairman or any officers of the Corporation appointed under section 41 the duty of receiving and disposing of applications under section 21 or 25, and the decisions of such officer in all cases made over to him by the Chairman shall have the same effect as if given by the Chairman.

Commissioners in meeting may appoint a person to act for the Chairman under sections 21 and 25.

28. The Commissioners in meeting may appoint a suitable person to perform all or any of the duties assigned to the Chairman under sections 21 and 25, or may appoint such person to assist the Chairman in carrying out all or any of those duties, and the decision of such person shall have the same effect as if given by the Chairman. The Commissioners in meeting may assign to such person such remuneration as may seem to them reasonable.

All resolutions passed by the Commissioners in meeting under this section shall be subject to the confirmation of the Local Government.

Improper omission or insertion of names in the list not to affect an election.

29. No election shall be deemed to be invalid or shall be in any way affected by reason of the name of any person qualified to vote being omitted from the list of voters, or by reason of the name of any person not qualified to vote being inserted therein, and no election shall be deemed to be invalid by reason of any failure to observe the dates hereinbefore prescribed or to comply with any rule made by the Local Government under section 19.

Commissioners to be appointed or elected for three years.

30. The Commissioners shall be appointed or elected, as the case may be, for a term of three years; at the expiration of that time, they shall cease to be Commissioners, but may be re-appointed or re-elected.

Preparation of list of candidates.

31. The general elections shall be held on some convenient day to be fixed by the Local Government not earlier than the first, nor later than the fifteenth, day of March, unless the Local Government shall, for some especial reason, on the recommendation of the Commissioners in meeting, fix some other day.

Every person who is a candidate for election shall send in his name to the Chairman in writing not less than seven days before the day fixed for the election, together with the names of two electors in each ward in which he proposes to stand who propose and second his candidature, and eight electors in each such ward who approve his nomination, and shall state the ward or wards for which he proposes to stand. The Chairman shall publish a list of all candidates at the Municipal Office not less than three days before the day fixed for

election. In the event of there being not more than two candidates for election in any ward, such candidate or candidates shall be deemed to be elected. In the event of there being more than two candidates, a poll shall take place in accordance with the rules made by the Local Government under section 19.

Disqualification of Commissioners.

32. No person shall be qualified for election or shall continue to be a Commissioner who—

(*a*) is an uncertificated bankrupt or an undischarged insolvent; or

(*b*) has been sentenced to rigorous imprisonment, or to simple imprisonment for six months or upwards, such sentence not having been set aside on appeal; or

(*c*) is directly or indirectly interested in any contract made with the Commissioners in accordance with the second clause of section 62:

Provided that no candidate or Commissioner shall be disqualified by reason only of his having a share or interest in—

(*a*) a contract entered into between the Commissioners and any incorporated or registered company of which such candidate or Commissioner is a member or shareholder;

(*b*) any lease, sale or purchase of land or any agreement for the same;

(*c*) any agreement for the loan of money or any security for the payment of money; or

(*d*) any newspaper in which any advertisement relating to the affairs of the Corporation is inserted.

But no Commissioner shall vote or take any part in any proceedings relating to any matter in which he is interested.

No Commissioner who shall be absent from Calcutta for six consecutive months shall continue in office as a Commissioner.

Bye-elections.

33. In case of the death, resignation or disqualification of any Commissioner, a person shall forthwith be appointed or elected in his stead in the manner hereinbefore provided, and such person shall remain a Commissioner for the residue only of the term for which the Commissioner in whose stead he was appointed or elected was originally appointed or elected:

Provided that no act of the Commissioners, their officers, or of the Commissioners in meeting, shall be deemed to be invalid by reason only of the fact that the number of the Commissioners at the time did not amount to seventy-five;

or that a disqualified person has continued to act as a Commissioner;

or that any Commissioner has taken part in any proceedings in contravention of the provisions of section 32.

Penalty for taking a bribe.

34. Whoever, being qualified to vote or claiming to be qualified to vote at any election under this Act, accepts or obtains, or agrees to accept, or at-

tempts to obtain for himself or for any other person, any gratification whatever as a motive or reward for giving or forbearing to give his vote in any such election, shall be liable to a fine not exceeding one hundred rupees for every such offence, and shall for seven years from the date of his conviction of such offence be disqualified from voting at any such election and from being elected a Commissioner.

Penalty for giving a bribe.

And whoever, by any gift or reward, or by any promise or agreement or security for any gift or reward, corrupts or procures, or offers to corrupt or procure, any person to give or forbear to give his vote in any such election, shall be liable to a fine not exceeding five hundred rupees for every such offence, and shall for seven years be disqualified from voting at any such election, and from being elected a Commissioner.

Application of municipal property and funds.

35. All property vested in the Commissioners and all funds received or raised by the Commissioners in accordance with the provisions of this Act shall be applicable to the purposes expressly authorized by this Act.

Objects to which municipal property and funds are applicable.

36. The purposes expressly authorized by this Act shall be held to include the objects connected with the public safety, health, instruction and convenience hereinafter specified, that is to say:—

(1) payment of the whole or any portion of the cost of the fire-brigade for the extinction of fires in Calcutta;

(2) provision for lighting the public streets, places and buildings, and for the securing or removal of dangerous places, buildings and trades;

(3) defraying the cost of the construction and maintenance of hospitals and of charges of vaccination, registration of births, deaths and marriages, and taking a census;

(4) construction and maintenance of public markets, slaughter-houses and places specified in section 345, latrines, privies, buildings for the deposit or discharge of night-soil, urinals, drains, sewers, drainage-works, water-works, wash-houses, public bathing-places, drinking-fountains, tanks, wells, squares and gardens, reclamation of unhealthy localities, and the like;

(5) watering the streets and cleansing the streets and sewers, scavenging, removal and disposal of offensive matter and noxious vegetation, and generally the abatement of all nuisances;

(6) regulation of offensive trades, of burial and burning grounds, and the removal of, and providing sites for, the same;

(7) construction, adornment, maintenance and alteration of streets, bridges, causeways, culverts and the like; regulation of buildings, naming

streets and numbering houses, planting trees and removal of obstructions and projections;

(8) construction, adornment and maintenance of public halls, offices and other buildings under the control of the Commissioners or required for municipal purposes;

(9) maintenance of establishments and cost of printing and stationery;

(10) survey of houses and land and preparation of plans;

(11) contribution to the cost incurred on the occasion of any public ceremony or entertainment in Calcutta;

(12) promotion of primary and technical education;

(13) contribution to any neighbouring municipality for sanitary purposes;

(14) provision of free libraries:

Provided that no expense shall be incurred under clause (11) without the previous sanction of the Local Government.

And generally all objects connected with the public safety, health and convenience.

Part II.—Of the Duties of the Corporation.

Duties of Commissioners.

37. It shall be the duty of the Commissioners and they are hereby required to—

(1) provide for the payment of the interest on the municipal debt in the manner prescribed by sections 407 and 408;

(2) provide for the establishment of a reserve fund in the manner prescribed by the said sections, or for the annual repayment required by section 411;

(3) complete and extend throughout Calcutta drainage-works and open out and improve bustees, and for these purposes to expend annually a sum being not less than two lakhs of rupees, or, with the sanction of the Local Government, any sum less than the above amount to be raised as provided by section 404;

(4) maintain a water-supply in the manner and to the extent mentioned in Chapter VII;

(5) make adequate and suitable provision for each of the following matters:—

(*a*) the cleaning and the conservancy of Calcutta;

(*b*) the maintenance and cleaning of drains and drainage-works;

(*c*) the construction and maintenance of public latrines, urinals and similar conveniences;

(*d*) the regulation of slaughter-houses and of offensive and dangerous trades;

(*e*) the regulation of markets;
(*f*) the lighting, watering and maintenance of the public streets;
(*g*) the registration of births and deaths;
(*h*) the preventing or checking the spread of dangerous diseases;
(*i*) the naming of streets and the numbering of premises;
(*j*) the regulation of new streets and buildings;
(*k*) the abatement of nuisances in the manner provided by Chapter XII;

(6) exercise the control over tramways with which they are vested by Bengal Act I of 1880;[a]

(7) devote to the improvement of the area newly added to Calcutta by this Act not less than three lakhs of rupees annually from the receipts of the revenue funds described in sections 102, 103 and 105:

Provided that the instalments of interest and reserve fund payable on any capital sum expended under clauses (3), (4) and (5) of this section for the improvement of that area shall be taken as part of the three lakhs of rupees.

Powers of the Local Government if the Commissioners fail in their duty.

38. Upon complaint made to the Local Government that the Commissioners have made general default in the performance of any of the duties referred to in the last preceding section, the Local Government, if satisfied, after due enquiry, that general default has been made, and that it is of a serious character, may make an order intimating a time not less than thirty days from the date of the order for the performance of such duty by the Commissioners; and, if such duty is not performed within the time limited in the order, the Local Government may appoint some person to perform the same, and may direct that a reasonable remuneration to the person so appointed, the amount whereof is to be specified, and also the expenses of performing such duty, shall be paid by the Commissioners out of the moneys levied by them under this Act. Any person appointed under this section to perform any duty of the Commissioners shall, in the performance and for the purposes of such duty, be invested with all the powers of the Commissioners:

Provided that the Commissioners in meeting may, within thirty days from the receipt of any order made under this section by the Local Government, transmit through the Local Government a petition of appeal to the Governor General in Council praying that such order may be set aside, and upon the receipt of such petition of appeal by the Local Government no further action shall be taken by the Local Government without the orders of the Governor General in Council.

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[a] See *supra*, p 450.

Part III.—Of the Officers of the Corporation.

Appointment and removal of Chairman of the Commissioners.

39. The Local Government shall from time to time appoint a proper person to be Chairman of the Commissioners, who shall reside within the limits of Calcutta.

Such Chairman may be removed from office by the Local Government at its discretion, and shall be so removed if his removal be recommended by a resolution in favour of which not less than two-thirds of the Commissioners voting at a special meeting shall have voted, but not otherwise.

Appointment of Vice-Chairman.

40. The Commissioners, at a special meeting to be held for that purpose, may from time to time appoint, for such period as they may think fit, a proper person to be Vice-Chairman of the Commissioners.

Such appointment shall be subject to the approval of the Local Government.

Appointment of Secretary, Engineer, Surveyor, Health-officer, Collector and Assessor.

41. The Commissioners may, at a special meeting, from time to time, appoint proper persons for such period as they may think fit to the several offices of Secretary, of Engineer, of Surveyor, of Health-officer, of Collector and of Assessor for the municipality, or may appoint a proper person to two or more of such appointments, or to one.

Every person so appointed, and also the Vice-Chairman, shall reside within the limits of Calcutta, and shall be under the orders of the Chairman, and shall perform such duties as shall be assigned by him, and may be removed by the Commissioners by a resolution in favour of which not less than two-thirds of the Commissioners voting at a special meeting shall have voted, and another person may be appointed in his place.

This section shall, except as regards residence, apply to any other officer, the initial salary of whose appointment shall be fixed at five hundred rupees or upwards.

All appointments and resolutions under this section shall be subject to the approval of the Local Government.

Chairman and Vice-Chairman not to engage in any profession or trade.

42. The Chairman and Vice-Chairman shall devote their whole time to the duties of their respective offices; and no Chairman or Vice-Chairman shall have, or engage in, any other profession, trade or business whatsoever:

Provided that—

(*a*) any civil or military officer in the service of the Government may hold the office of Chairman or Vice-Chairman, so long as such officer shall fill no other appointment than one of those specified in this section;

(*b*) the Chairman and Vice-Chairman respectively may hold the office of Commissioner as interpreted in section 1 of Bengal Act No. V of

1870[a] (*to appoint Commissioners for making Improvements in the Port of Calcutta*);

(*c*) the Chairman and Vice-Chairman respectively may also be members of the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations;

(*d*) the Vice-Chairman may, with the sanction of the Local Government, be appointed to, and may hold, any other office in the employ of the Commissioners to which he may be appointed at a special meeting.

Allowances of Chairman and Vice-Chairman.

43. The Chairman and the Vice-Chairman respectively may receive such allowances as shall be from time to time fixed by the Commissioners at a special meeting.

Such allowance shall be—

(*a*) for the Chairman not more than three thousand or less than two thousand five hundred rupees a month (exclusive of house-rent, which may or may not, in the discretion of the Commissioners, be allowed):

(*b*) for the Vice-Chairman not more than fifteen hundred rupees a month.

All resolutions passed by the Commissioners under this section shall be subject to the approval of the Local Government.

Salaries of officers.

44. Every officer appointed under section 41 may receive such allowance as shall be from time to time fixed by the Commissioners at a special meeting.

All resolutions passed by the Commissioners under this section shall be subject to the approval of the Local Government.

Appointment and remuneration of subordinate officers and servants.

45. The Chairman may, from time to time, appoint all such subordinate officers and servants, other than those referred to in section 41, as he shall think necessary and proper, to assist in carrying out this Act, and may, from time to time, remove any of such persons and appoint another in his place;

and may pay such allowances to such persons respectively, or, in case of absence on leave, such portion thereof as he shall think reasonable:

Provided that the allowances in respect of the offices filled by such persons shall have been included in the budget as passed by the Commissioners in meeting, under section 71, or shall have been subsequently sanctioned by them, and that the total amount paid to an absentee and the person appointed to act for him shall not exceed the allowance sanctioned by the Commissioners in meeting except upon a resolution passed by the Commissioners in meeting.

But no person shall be appointed to, or removed from, any office, the monthly salary of which exceeds Rs. 200, without the sanction of the Com-

[a] See *supra*, p. 130.

missioners in meeting. And the Commissioners in meeting may authorize the Chairman to nominate not more than three of the candidates for any such appointment as is referred to in this clause, and the Commissioners in meeting shall, upon such nomination being made, appoint one of the persons so nominated and no other.

Power to suspend or fine officers appointed under section 41 or the last preceding section.

46. Any person appointed to any office under section 41 or the last preceding section may be suspended or fined by the authority by which he may be removed subject to approval or sanction of the authority (if any) empowered by this Act to approve or sanction such removal.

Commissioners in meeting to grant leave of absence, with sanction of Local Government.

47. The Commissioners in meeting may, with the sanction of the Local Government, grant such leave of absence to the Chairman or any officer appointed under sections 40 and 41, and may, if such officer be other than the Chairman, make such arrangements for carrying on the duties of his office during his absence on leave as shall to them seem proper.

In any case in which leave of absence shall be granted to the Chairman, the Local Government shall appoint one of the Commissioners to act as Chairman in his place, or shall make such other arrangements for carrying on the duties of the office as to it shall seem proper.

Any person appointed under this section to act for the Chairman or any other officer shall, while so acting, have all the powers, and be liable to all the restrictions, limitations and provisions, which the Chairman or other officer for whom he may be appointed to act would, under this Act, have or be liable to.

Allowances during absence on leave.

48. In any case in which leave of absence shall be granted under the last preceding section, such allowance shall be paid to the absentee, and such deputation allowance to the officer appointed to act for him, as may be prescribed by rules passed by the Commissioners in meeting under the next succeeding section. In special cases in which a departure from the rules seems requisite, the allowances must be sanctioned by a resolution of the Commissioners in favour of which not less than two-thirds of the Commissioners voting at the meeting shall have voted.

Commissioners in meeting may make rules for allowances, pensions and gratuities to their officers and servants.

49. The Commissioners in meeting may, by a resolution in favour of which not less two-thirds of the Commissioners voting at such meeting shall have voted from time to time, make rules for absentee and deputation allowances, for granting pensions and gratuities to their officers and servants, and for establishing and maintaining a provident or annuity fund, and for compelling all or any of the servants of the Corporation to contribute thereto, and may repeal, alter or add to such rules. No rule, and no repeal, or alteration of, or

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addition to, any rule, shall have effect until the same has been confirmed by the Local Government and published in the Calcutta Gazette.

The Commissioners in meeting may, from time to time, in accordance with such rules for the time being in force, grant such pensions or gratuities to any of their officers or servants as to the Commissioners may seem fit.

Officers not to be interested in contracts made with the Commissioners.

50. No Chairman or Vice-Chairman, or other officer or servant of the Commissioners, shall be interested, directly or indirectly, in any contract made with the Commissioners, and, if any such person be so interested, he shall become incapable of continuing in office or in employment as such Chairman, Vice-Chairman or other officer or servant, and shall forfeit and pay the sum of five hundred rupees, which may be recovered by suit brought by or on behalf of the Commissioners:

Provided that no such officer or servant shall, by reason of being a shareholder in, or a member of, any incorporated or registered company, be deemed interested in any contract entered into between such company and the Commissioners, or shall be precluded from tendering for any municipal loan or from holding municipal debentures.

Commissioners, officers, servants, contractors and agents to be deemed to be public servants.

51. Every Commissioner and every municipal officer and servant appointed under this Act, and every contractor or agent for the collection of any municipal tax, and every servant or other person employed by any such contractor or agent, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.[a]

XLV of 1860.

Part IV.—Of the Mode of transacting Business and entering into Contracts.

Ordinary and special meetings.

52. The Commissioners shall meet ordinarily not less than once a month for the transaction of business, and the Chairman or, in his absence, the Vice-Chairman, may, whenever he thinks fit, and shall, upon a requisition made in writing by any ten Commissioners, call a special meeting of the Commissioners.

What business to be transacted at meetings.

53. Four days' notice shall be given by advertisement in at least two of the daily newspapers published in Calcutta of the date fixed for every ordinary or special meeting and of the business to be transacted at such meeting, and a list of the business to be transacted at any meeting shall be sent to the address of every Commissioner resident in Calcutta, so that it may be in his hands forty-eight hours before the time fixed for such meeting; and no business shall be brought before, or transacted at, any meeting other than the business of which notice has been given:

[a] See General Acts, 1834—66, 2nd Ed., p. 243.

Provided that any Commissioner may submit to a meeting any resolution beyond the matters mentioned in the notice given of such meeting, if he shall have given not less than forty-eight hours' previous notice of his intention so to do, by leaving a copy of the resolution at the office of the Commissioners.

All questions to be decided at meetings by majority of votes.

54. All acts authorized or required to be done by the Commissioners, and all questions which may come before them for decision, shall, save as is herein otherwise provided, be done, and decided by, a majority of the Commissioners voting at the meeting before which the matter may be brought.

Who to preside at meetings.

55. The Chairman and Vice-Chairman shall attend all meetings of the Commissioners held under this Act, unless prevented by sickness or other reasonable cause; and the Chairman or, in his absence, the Vice-Chairman, shall preside at every such meeting, and shall have a second or casting vote in all cases of equality of votes.

In the absence of both the Chairman and Vice-Chairman, the Commissioners present at any meeting shall choose some one of their number to preside, who shall, in case of equality of votes, have a second or casting vote.

The President of any meeting at which a quorum of the Commissioners shall be present may, with the consent of the meeting, adjourn the meeting from time to time, and from place to place.

What shall constitute a quorum.

56. No business shall be transacted at any meeting unless a quorum of eighteen Commissioners be present at such a meeting:

Provided that, if at any meeting there shall not be a sufficient number of Commissioners present to form a quorum as above mentioned, the President (whether he be the Chairman or not) shall adjourn the meeting to such convenient time and place as he shall think fit; and the business which should have been brought before the original meeting, had there been a quorum present, shall be brought before and disposed of by the adjourned meeting in the usual manner, at which a quorum of ten Commissioners shall suffice.

Minutes of proceedings of meetings to be kept, and to be open for inspection.

57. Minutes of the proceedings of all meetings shall be drawn up and fairly entered in a book to be kept for that purpose, and shall be signed by the President after each meeting; and the said minutes shall, at all reasonable times, be open at the office of the Commissioners to the inspection of any Commissioner without charge, and of any other person on payment of a fee of eight annas.

All meetings, the minutes of the proceedings of which have been duly signed by the President, shall be taken to have been duly convened and to be free from all defect and irregularity.

Declaration

58. At any meeting, unless a poll be demanded by at least five Commis-

sioners, a declaration by the President that a resolution has been carried and an entry to that effect in the book of proceedings of the Commissioners shall, for the purposes of this Act, be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

by President that a resolution has been carried.

59. If a poll be demanded as in the last preceding section mentioned, the votes of all the Commissioners present who desire to vote shall be taken under the direction of the President, and the result of such poll shall be deemed to be the resolution of the Commissioners at such meeting:

Poll how to be taken.

Provided that the Commissioners in meeting may, subject to such rules as may be framed by them under section 68, resolve that any question or class of questions shall be decided by ballot.

60. The Chairman or Vice-Chairman shall, except upon such holidays as shall be allowed by the Government and unless prevented by sickness or other reasonable cause, attend daily at the office of the Commissioners for the transaction of business connected with, or arising under, this Act.

Chairman or Vice-Chairman to attend daily for the transaction of business.

61. The Chairman may exercise all the powers vested by this Act in the Commissioners:

Powers of the Chairman.

Provided that he shall not exercise any power which by this Act is directed to be exercised only by the Commissioners in meeting. Nor shall he act in opposition to, or in contravention of, any orders passed by the Commissioners at a meeting; and, if any order passed by him under the authority vested in the Commissioners is brought before a meeting of the Commissioners and modified or disapproved of by them, the Chairman shall, as far as possible, modify or cancel such order so as to bring it into conformity with the order of the Commissioners in meeting.

The Vice-Chairman may exercise the same authority as the Chairman on behalf of the Commissioners, subject to his general direction and control.

Powers of the Vice-Chairman.

All powers which may lawfully be exercised by the Chairman shall be deemed to have been exercised by him if exercised by any subordinate officer acting in the execution of the duties assigned to him by the Chairman.

62. The Commissioners may enter into and perform all such contracts as may be necessary for carrying this Act into effect.

Mode of contracting by, and on behalf of, the Commissioners.

Every contract made by the Chairman or Vice-Chairman on behalf of the Commissioners, the subject-matter of which exceeds one thousand rupees in value, shall be in writing, and signed by the Chairman or Vice-Chairman and two other Commissioners, and shall be sealed with the seal of the Commissioners; and no such contract, unless made in accordance with a vote of the

Commissioners in meeting, shall be concluded without inviting tenders thereon and without the approval of a Committee of the Commissioners.

Unless so executed, it shall not be binding on the Commissioners.

The Commissioners in meeting, or any Committee of the Commissioners, may compound with any contractor or other person in respect of any penalty or damages incurred by reason of the non-performance of any contract entered into as aforesaid whether such penalty be mentioned in any such contract or otherwise, for such sums of money or other recompense as to the Commissioners may seem proper.

Every contract involving an expenditure exceeding one lakh of rupees shall require the sanction of the Local Government.

Election and appointment of General Committee.

63. As soon as may be, and not later than the first day of June in each year, the Commissioners in meeting shall proceed to appoint a General Committee for the year, the members of which shall, provided that they are Commissioners, hold office till the election and appointment of their successors.

The General Committee shall consist of eighteen Commissioners, of whom twelve shall be elected, in such manner as the Commissioners in meeting may direct, by the Commissioners elected under the first clause of section 8;

and six shall be elected, in accordance with such rules as the Local Government may prescribe, by the Commissioners nominated under section 7, and elected under the last clause of section 8.

Duties of the General Committee.

64. The General Committee shall ordinarily meet once a week for the transaction of business. It shall be the Budget and Finance Committee of the Corporation, and shall also transact such other business as may be expressly referred to it by the Corporation, or as may not be referred to any other standing or Special Committee.

The proceedings of the General Committee shall be submitted to the Commissioners in meeting, and the General Committee shall be bound by any resolution passed by the Commissioners in meeting:

Provided that, when the Chairman and the majority of the General Committee are in accord, and inconvenience is likely to result from delay, it shall not be necessary before action is taken to wait for the confirmation of the Commissioners in meeting; but if the Commissioners in meeting do not confirm the action of the General Committee, such steps shall be taken to carry out the orders of the Commissioners as may still be practicable.

The Chairman and Vice-Chairman shall be *ex officio* members of the General Committee, and the Chairman, or, in his absence, the Vice-Chairman shall preside at its meetings.

In the absence of the Chairman and Vice-Chairman the members present shall choose one of their number to preside.

Appointment of Standing and Special Committees.

65. The Commissioners in meeting may, from time to time, appoint from among the Commissioners such other Committees, either standing or special, and consisting of so many members as they may think fit, for the purpose of enquiring into and reporting upon any matter connected with the conservancy or improvement of Calcutta not assigned by this Act, or by the vote of the Commissioners in meeting to the General Committee, or for the purpose of advising or aiding the Chairman or Vice-Chairman in the discharge of any portion of the duties exerciseable by them under section 61 which, in the discretion of the Commissioners, would be better regulated or managed with the aid of such Committee:

Provided that the Chairman or Vice-Chairman shall be a member of every Standing Committee.

Duties of Committees.

66. The proceedings of every Committee, other than the General Committee, shall be submitted to the Commissioners in meeting, and the Committee shall be bound by any resolution passed by the Commissioners in meeting:

Provided that, when the Chairman and the majority of the Committee are in accord, and inconvenience is likely to result from delay, it shall not be necessary before action is taken to wait for the confirmation of the Commissioners in meeting; but, if the Commissioners in meeting do not confirm the action of the Committee, such steps shall be taken to carry out the orders of the Commissioners as may still be practicable:

Provided also, that if the Commissioners in meeting when appointing a Committee expressly prohibit any action being taken until the decision of the Committee has been confirmed in general meeting, no action shall, under any circumstances, be taken prior to such confirmation.

Power of Committees to appoint Sub-Committees.

67. The General Committee or any other Committee may, subject to the control of the Commissioners in meeting, appoint such Sub-Committees as they may think fit, and make over to them such of their duties and functions as they may deem proper.

No defect in the constitution of, or the proceedings at, any Committee meeting or Sub-Committee meeting shall be held to invalidate such proceedings after they have been confirmed by the Commissioners in meeting.

Power to frame rules

68. The Commissioners in meeting may frame rules not inconsistent with this Act for the conduct of business at their meetings, and also for the

for conduct of business.

conduct of business at meetings of the General Committee and other Committees.

Part V.—Of the Estimates of Income Expenditure and Audit.

A budget or estimate of income and expenditure to be submitted annually to the Commissioners.

69. At a general meeting to be held in the month of February in each year, the Chairman shall lay before the Commissioners a budget or estimate, prepared by him, of the income and expenditure of the Commissioners for the year commencing on the first day of April then next succeeding, in such detail and form as the Commissioners in meeting shall from time to time direct.

Such budget shall be completed and printed, and a copy thereof, as far as may be practicable, sent by post or otherwise to each of the Commissioners resident within twenty miles of Government House, at least three days prior to the meeting before which the budget is to be laid.

Budget of expenditure.

70. The budget shall show what expenditure it is proposed to incur during the period to which it relates, and the manner in which it is proposed to meet such expenditure:

Provided that nothing contained in this section shall preclude the Commissioners in meeting from sanctioning expenditure not provided for in the budget.

Such budget shall be referred to the General Committee for consideration with such instructions as the Commissioners in meeting may think fit to pass when making such reference. The General Committee shall consider such budget, modify it at its discretion, and report upon it in time for consideration at the meeting to be held for fixing the rates under the provisions of the next succeeding section.

Passing of budget and fixing of rates.

71. The Commissioners in meeting, to be held during the month of March, shall consider the budget as modified by the General Committee, and shall pass it subject to such further modifications or additions as may be thought fit. The Commissioners shall thereupon at the same meeting, or, if such meeting be adjourned, at such adjourned meeting, fix, with reference to the budget as passed, the rates at which the rates and taxes hereinafter mentioned shall be imposed for the year commencing on the first day of April next ensuing, and the rates so fixed shall not be altered before the special meeting held in the next succeeding month of March, except by a resolution of the Commissioners passed at a special meeting.

No new work or series of works, the entire estimated cost of which

amounts to one lakh of rupees, shall be commenced (though included and passed in the budget) without the sanction of the Local Government.

Accounts to be audited and examined.

72. The accounts of the receipts and expenditure of the Commissioners shall be audited and examined at least once in every year at such time and by such auditors as shall, from time to time, be appointed by the Local Government.

Powers of auditors.

73. For the purposes of any audit and examination of accounts under this Act, the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, accounts, vouchers and all other documents and papers which they may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents or papers to appear before them at any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same.

Penalty.

74. Any person who, when duly required so to do by any auditor of accounts under the last preceding section, shall neglect or refuse to appear before such auditor, or to produce any books, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign a declaration with respect to the same, or to answer any question or prepare and submit any statement, shall be liable, for every neglect or refusal, to a fine not exceeding one hundred rupees, and to a further fine not exceeding seventy rupees for each day during which the offence is continued after he has been convicted of such offence.

Remuneration of auditors.

75. All auditors acting under this Act shall, in respect of each audit, be paid such reasonable remuneration as the Commissioners in meeting shall, from time to time, determine.

Ten days' notice of audit to be given.

76. Before each audit and examination of accounts, the Commissioners shall give ten days' notice of the time and place at which the same will be made by advertisement in at least two of the daily newspapers published in Calcutta; and a copy of the accounts to be audited and examined shall be deposited in the office of the Commissioners and be opened during office hours thereat to the inspection of all persons interested for seven days before the audit and examination, and all such persons shall be at liberty to take copies of, or extracts from, the same, without the payment of any fee, and, within fourteen days after the audit and examination shall have been completed, the auditors shall report upon the accounts audited and examined, and shall deliver such report to the Commissioners in meeting, who shall cause the same to be deposited in the office of the Commissioners, and to be published in the Calcutta Gazette.

CHAPTER III.

Of Taxes.

Part I.—Of the Tax on Carriages and Animals.

Tax on carriages and animals.

77. A tax at a rate not exceeding the rates prescribed in the fourth schedule shall be imposed upon all carriages and draught animals or animals used for riding kept in Calcutta, and shall be payable in advance. But it shall not be imposed on—

(*a*) any animal which any person exempted from the operation of any municipal tax by an order issued under section 3 of Act XI of 1881[a] is bound, by the regulation of the service to which he belongs, to keep;

(*b*) animals exempt from any municipal tax under section 25 of Act XX of 1869;[b]

(*c*) carriages or animals belonging to the Government or to the Corporation;

(*d*) carriages none of the wheels of which exceed twenty-four inches in diameter;

(*e*) carriages kept for sale by *bonâ fide* dealers in such carriages and not used for any other purpose;

(*f*) carriages or animals certified by the Chairman of the Corporation or by the Commissioner of Police, respectively, to be used by the owner thereof for municipal or police purposes;

(*g*) tramcars and animals employed in working street tramways.

Owners of carriages or animals to take out license.

78. The owner or the person in charge of a carriage or animal liable to a tax under the last preceding section shall, before the first day of May and the first day of November in each year, forward to the office of the Commissioners a statement in writing signed by him, containing a description of the carriages and animals owned by him or in his charge liable to the tax.

Such persons shall at the same time pay to the Commissioners such sum as shall be payable by him for the half-year commencing on the first day of April or October (as the case may be) for the carriages and animals specified in such statement, according to the rates prescribed in the fourth schedule.

Any person who becomes the owner or takes charge between the first day of April and the first day of October, or between the first day of October and the first day of April, of any carriage or animal shall, within a week of his becoming owner or taking charge, send to the office of the Commissioners a

[a] See General Acts, 1877—81, p. 470. [b] See General Acts, 1867—76, 2nd Ed., p. 186.

similar statement, together with the amount payable for the whole of the then current half-year according to the rates prescribed in the fourth schedule.

The Commissioners may, if they are satisfied that any such carriage has not been used within the half-year, or that any such carriage or animal has been kept for only a portion of the then current half-year,

refund, or remit, the whole, or such portion thereof as they may think fit, of the amount so payable.

For the purposes of this section a livery-stable keeper shall be deemed to be the owner or to be in charge of every animal in his stables.

On payment of tax, Commissioners to grant license.

79. Whenever any person shall pay to the Commissioners the amount of the tax which shall be payable by him in respect of all carriages and animals kept in Calcutta, the Commissioners shall grant to such person a license to keep such carriages and animals during the current half-year ending upon the thirtieth day of September or the thirty-first day of March next after the grant of such license, and no longer.

A license may at any time be granted for any previous half-year for which no license has been taken out on payment of the amount due for that half-year.

Penalty.

80. Whoever owns, or is in charge of, any carriage or animal without the required license shall be liable to a fine not exceeding three times the amount payable by him in respect of such license, and not being less than one and a half times such amount. And such fine shall, when levied, be taken in full satisfaction of the demand on account of such license.

Commissioners may compound for carriages with livery-stable keepers and others.

81. The Commissioners, at their discretion, may compound, for any period not exceeding one year, with livery-stable keepers and other persons keeping carriages for hire, or animals for sale or hire, for a certain sum to be paid for the carriages or animals so kept by such persons in lieu of the taxes prescribed in the fourth schedule.

Penalty.

82. The provisions of section 80 shall apply to any person who, having compounded for the payment of a certain sum under the last preceding section, refuses or neglects to pay such sum; the amount due for a license being taken as the amount thus compounded for.

Power to compel production of the books of livery-stable keepers.

83. The Commissioners may, by a notice in writing, require any person who shall carry on the trade or business of a livery-stable keeper to produce, for the inspection of the Commissioners, or of any officer authorized by them in that behalf, all books and accounts relating to such trade or business.

Power to inspect stables and seize carriages and

84. The Commissioners may, at any time between sunrise and sunset, enter and inspect any stable or coach-house, or any place wherein they may have reason to believe that there is any carriage or animal liable to taxation;

animals if tax unpaid and owner unknown.

and, if the Commissioners at any time find any carriage or animal in respect of which no license has been obtained, the Commissioners may, if the owner or person in charge of such carriage or animal is unknown, by a written order authorize any of their subordinate officers to take possession of such carriage or animal, and the Commissioners shall make such order as they think fit respecting the custody thereof.

Disposal of carriages and animals seized.

85. If any person within one month establishes his claim to the possession of such carriage or animal, the Commissioners shall order it to be delivered to him on payment of the tax due, together with such costs as the Commissioners may have reasonably incurred in taking possession of and keeping the same. If no person within such period satisfies the Commissioners that he is entitled to such carriage or animal, it may be sold for the recovery of the tax and costs aforesaid; and, if any person whose carriage or animal has been sold establishes his claim to the net proceeds of such sale, the Commissioners shall order the proceeds of such sale, less the tax due and all costs incurred in consequence of the seizure and sale, to be delivered to such person.

List of persons licensed to be entered in a book.

86. The Commissioners shall, from time to time, cause to be prepared and entered in distinct columns in a book to be kept at the office of the Commissioners, and to be open to the inspection of any person who shall apply for leave to inspect the same, a list of the persons to whom during the then current period of six months a license has been granted under section 79 and of the carriages and animals in respect of which the same has been granted.

Part II.—Of the Tax on Professions, Trades and Callings.

Persons exercising certain professions, trades and callings in the town to take out a license.

87. Every person who shall exercise in Calcutta any of the professions, trades or callings prescribed in the second schedule shall annually take out a license and shall pay for the same such sum as is in the second schedule mentioned.

The Commissioners may in their discretion remit or refund any portion of the sum so payable if they are satisfied that any such person has exercised any such profession, trade or calling for a portion of the year only.

They may also reduce any person from a higher to a lower class, or exempt any person altogether on the ground of his inability to take out such license.

License to be granted by Commissioners and to specify particulars.

88. The license mentioned in the last preceding section shall be granted by the Commissioners, and shall specify—

(*a*) the date of the grant thereof;

(*b*) the name of the person to whom the license is granted ;

(*c*) the profession, trade or calling, and if the license is a local license the place of business in respect of which it is granted, and the sum paid for such license.

Such license shall have effect and continue in force from the commencement of the year on account of which it is granted until the thirty-first day of March of that year.

Liability and class how to be determined.

89. The liability of any person to take out a license, and the class under which he shall be deemed bound to take out such license, shall be determined in accordance with the procedure laid down in rule (7) of the second schedule.

Penalty for exercising trade or profession without a license.

90. Whoever exercises any trade, profession or calling without the license required by section 87 on or after the first day of July in any year shall be liable to a fine not exceeding three times the amount payable by him in respect of such license, and not being less than one and a half times such amount. And such fine shall, when levied, be taken in full satisfaction of the demand on account of such license.

Commissioners may require list of persons in any house.

91. The Commissioners may by notice in writing require the occupier of any house to forward to them within seven days a list, signed by him, of the names of all male persons residing or carrying on any trade, profession or calling in such house and of their respective professions, trades and occupations.

Penalty.

92. Whoever, being the occupier of any house, fails to forward such list when required to do so under the last preceding section, shall be liable to a fine not exceeding one hundred rupees.

Commissioners to prepare a list of all persons required by this Act to be licensed.

93. As soon as may be after the first day of April in every year, the Commissioners shall prepare a list of the persons licensed for the preceding year under section 88, which shall state the particulars specified in that section, and such list shall be kept in the office of the Commissioners, and be open to public inspection at all reasonable times.

Part III.—Of the Registration of Carts.

Registry and numbering of carts.

94. Every cart kept or used within the limits of Calcutta or Howrah shall be registered in the office of the Commissioners with the name and residence of the owner, and shall have affixed thereto the number of such registration in such manner as the Commissioners shall direct.

Penalties.

95. Whoever keeps, or is in possession of, a cart not duly registered as required by the last preceding section shall be liable to a fine not exceeding three times the amount payable by him in respect of such registration,

exclusive of the amount so payable; and whoever, being the owner or driver of any cart, shall fail to affix the registration number required by the last preceding section shall be liable to a fine not exceeding five rupees.

Fee for registration.

96. The registration of carts under section 94 shall be made, and the numbers assigned half-yearly on or after the first day of April and the first day of October in each year, upon such days as the Commissioners shall appoint, and a fee of four rupees shall be paid for each registration.

The Commissioners may, in their discretion, remit any portion of the fee so payable if they are satisfied, if the cart hereinbefore required to be registered, as mentioned in section 94, has been kept or used for a portion of the half-year only.

When any registered cart is transferred within any half-year, it shall be registered anew in the name of the person to whom it has been transferred; and a fee of four annas shall be paid for every such last-mentioned registration.

The total net proceeds of the fees half-yearly received by the Commissioners for the registration of carts, after deduction of the charges incurred on account of such registration, shall be divided between the municipalities of Calcutta and Howrah, and such other municipalities adjacent to Calcutta or Howrah as the Local Government shall declare to be entitled to a share in such receipts, in such proportion as the Local Government may, from time to time, determine.

Last three sections not to apply to certain carts.

97. The three last preceding sections shall not apply to carts—

(*a*) which are the property of the Government;

(*b*) which are the property of the Commissioners of Calcutta or Howrah, or of any adjacent municipalities; or

(*c*) which are kept at any place more than eight miles distant from Government House and are only temporarily and casually used within the municipality of Calcutta or Howrah.

On failure to register, Commissioners may seize and sell carts and animals.

98. If any person owns or keeps any cart hereinbefore required to be registered, without having caused the same to be registered, the Commissioners may seize such cart (provided the same be not employed at the time of the seizure in the conveyance of passengers or goods), together with the animals or cattle drawing the same, and may detain them.

And all police-officers shall, on the application of the Commissioners, seize and detain any such cart, animals or cattle.

If the cart, animals or cattle so seized be not claimed within ten days, they may be sold by auction by order of a Magistrate, and the proceeds of

such sale may be applied to the expenses incurred on account of the seizure, detention and sale; and the surplus (if any), if not claimed within a further period of twenty days, shall be paid to the credit of the Corporation.

Part IV.—Of the Tax on Petroleum.

Levy of a tax on petroleum.

99. The Commissioners in meeting may, with the previous sanction of the Local Government, prohibit the introduction into Calcutta for the purpose of storage therein of petroleum intended for consumption elsewhere, and may thereafter, with the like sanction, levy a tax not exceeding four annas per case of ten gallons on all petroleum introduced into Calcutta for consumption therein.

Rules for taxing petroleum.

100. The Commissioners in meeting may, from time to time with the sanction of the Local Government, make rules as to all or any of the following matters:—

(*a*) the detention and examination of petroleum introduced into Calcutta for consumption therein;

(*b*) the collection of the tax levied on petroleum;

(*c*) such other matters connected with the introduction of petroleum into Calcutta for consumption therein as the Commissioners in meeting may, from time to time, think fit to regulate:

Provided that no rule shall render petroleum passing through Calcutta in transit for any place beyond it liable to taxation or to any detention or examination whatsoever under this Act.

And all petroleum introduced into Calcutta contrary to any rules made under the provisions of this section may be seized and confiscated.

All petroleum confiscated under this section shall become the property of the Commissioners.

CHAPTER IV.

Of Rates.

Part I.—Of Imposing the Rates.

Rates.

101. The Commissioners may, as provided in section 71, impose the following rates upon all houses and lands within the town:—

(*a*) the general rate not exceeding thirteen per cent. on the annual valuation;

(*b*) a water-rate not exceeding six per cent. on the annual valuation:

Provided that houses and lands, no part of which is within one hundred

and fifty yards of the nearest stand-pipe or other supply of filtered water available to the public, shall pay three per cent. less than houses otherwise situated;

(*c*) a lighting-rate not exceeding two per cent. on the annual valuation;

(*d*) a sewage-rate not exceeding two per cent. on the annual valuation.

Appropriation of the water-supply fund.

102. The water-rate shall be annually fixed by the Commissioners in meeting with reference to the requirements of the water-supply fund.

The water-supply fund shall be credited with the receipts of the water-rate, with all receipts arising out of the sale of water, and with all miscellaneous receipts connected with the water-supply.

It shall be debited with—

(*a*) the annual interest of all sums borrowed from time to time, whether from Government, or by way of debenture loan for the construction or extension of water-works for the supply of filtered or unfiltered water;

(*b*) the annual expenditure requisite for the repayment of these loans, or for the creation of a reserve fund for their future repayment;

(*c*) the cost of maintaining in an efficient condition the supply of filtered water to Calcutta;

(*d*) the cost of maintaining in an efficient condition the supply of unfiltered water to Calcutta;

(*e*) the establishments and miscellaneous expenditure necessary for the purposes specified in clauses (*c*) and (*d*);

(*f*) such a proportionate share of the cost of collection, of general supervision and of the head office as the Commissioners in meeting may, from time to time, direct.

Appropriation of the lighting fund.

103. The lighting-rate shall be annually fixed by the Commissioners in meeting with reference to the requirements of the lighting fund.

The lighting fund shall be credited with the receipts of the lighting-rate, with the receipts, if any, arising out of the sale of gas or electricity, and with all miscellaneous receipts connected with the lighting of the town.

It shall be debited with—

(*a*) the annual interest on all sums which may hereafter be borrowed for the construction of gas-works or for supplying electricity for the lighting of Calcutta;

(*b*) the annual contributions to the reserve fund for the future repayment of such sums;

(*c*) all expenditure necessary for the efficient lighting of the town by gas, oil, electricity or any other means;

(*d*) the establishments and miscellaneous expenditure necessary for the purposes specified in clause (*c*);

(*e*) such proportionate share of the cost of collection, of general supervision and of the head office as the Commissioners in meeting may, from time to time, direct.

Appropriation of the sewage fund.

104. The sewage-rate shall be annually fixed by the Commissioners in meeting with reference to the requirements of the sewage fund.

The sewage fund shall be credited with the receipts of the sewage-rate, with the proceeds, if any, arising from the sale of night-soil, the receipts from licenses under section 311, and with all miscellaneous receipts connected with the working of the night-soil removal department.

It shall be debited with—

(*a*) the cost of the establishments maintained under section 313;

(*b*) the cost of maintenance of all public latrines and urinals and of the establishments for their cleansing;

(*c*) such proportionate share of the cost of inspecting, maintaining and cleansing the public sewers as the Commissioners in meeting may, from time to time, determine;

(*d*) such proportionate share of the cost of collection, of general supervision and of the head office as the Commissioners in meeting may, from time to time, determine.

Appropriation of the general fund.

105. The general rate shall be annually fixed by the Commissioners in meeting with reference to the requirements of the general fund.

The general fund shall be credited with the receipts of the general rate, with all moneys paid to the Commissioners in accordance with the provisions of this Act other than those assigned to the water-supply fund, lighting fund or sewage fund, and with such other moneys received by the Commissioners as the Commissioners in meeting may, from time to time, direct to be credited to the general fund.

It shall be debited with all expenditure incurred in accordance with the provisions of this Act other than that debitable to the water-supply fund, lighting fund or sewage fund, and with all other expenditure that may be lawfully incurred by the Commissioners which the Commissioners in meeting shall direct to be debited to the general fund:

Provided that, when any of the other rates are levied at a maximum, but not otherwise, grants may be made by the Commissioners in meeting in aid of any fund dependent on such rate if the receipts of the fund fall short of the requisite disbursements.

The four rates to be levied as a consolidated rate.

106. These four rates, after having been fixed under section 71 of this Act, shall be levied as one consolidated rate, and the collections made on account of this rate shall be divided between the general fund, the water-supply fund, the lighting fund and the sewage fund in the proportions at which the rates are being levied for the time being without reference to the year on account of which each payment is made.

Such deduction shall, however, be made from the proportion to be credited to the water-supply fund as may seem to the Commissioners in meeting to be approximately equivalent to the diminished productiveness of that rate, owing to the partial exemption of certain premises under clause (*b*) of section 101.

Rate by whom and when payable.

107. The consolidated rate shall be payable half by the owners of the houses and lands, and half by the occupiers thereof. It shall be payable on the first day of April, first day of July, first day of October and first day of January for the quarters, respectively, commencing on those dates.

Part II.—Of the Owner's Share of the Consolidated Rate.

If assessment be made at a higher annual value than the amount paid by the occupier, owner may recover difference from him.

108. If the annual value of any house or land as determined under Chapter V shall in any case exceed the amount of rent payable to the owner, the owner may in such case recover from the person who pays him rent the difference between the sum assessed upon him as the owner's share of the consolidated rate and the sum at which he would have been assessed had the house been valued only at the amount of rent actually payable to him, and such difference shall be added to the rent and shall be recovered by the owner from the person liable for the payment thereof.

Refund of owner's share of consolidated rate.

109. When any house or land whereon the consolidated rate is assessed under Chapter V has been vacant for sixty consecutive days during any year the person liable to pay the owner's share of the consolidated rate shall, if notice in writing be given to the Commissioners of such house or land being vacant, be liable to pay only one-fourth of the consolidated rate due on account of the period of vacancy—the period of vacancy being calculated from the date on which the notice is delivered; if more than one-fourth of the consolidated rate has been paid in advance, the surplus shall, on demand, be refunded.

No refund unless application be made within six months from vacancy.

110. No refund shall be made under the last preceding section unless the same shall be applied for within six months from the date of vacancy of the house or land on account of which the refund is applied for.

Part III.—Of the Occupier's Share of the Consolidated Rate.

Refund of occupier's share of consolidated rate when house ceases to be occupied.

111. When any house or land whereon the consolidated rate is assessed under Chapter V is vacant, the person liable to pay the occupier's share of the rate up to the period of such vacancy shall, if he has paid for the whole quarter, be entitled to a refund of all the rate paid by him for the period during which the house is vacant, or for the period during which it may have been occupied by a new occupier, if notice shall have been given in writing to the Commissioners of such house or land being vacant; and the date of vacancy shall be calculated from the date of delivery of such notice at the office of the Commissioners.

No refund of rates unless application made within six months from vacancy.

112. No refund of rates shall be made under the last preceding section unless the same is applied for within six months from the date of cessation of occupation of the house or land on account of which the refund is applied for.

Rate payable on house or land becoming occupied.

113. Whenever any house or land which shall have been unoccupied shall be occupied during any quarter, there shall be forthwith payable in respect of such house or land the full occupier's share of the consolidated rate for the period between the date of occupation and the last day of the quarter.

Person sub-letting to different persons to be deemed occupier.

114. Whenever any person holding any house or land at a rent from the person liable to pay the owner's share of the consolidated rate in respect of such house or land has or may sub-let the same to different persons holding in severalty, the person so holding shall, for the purposes of this Act, be deemed to be the occupier of such house or land.

Power to impose entire rate on owner in certain cases.

115. If any house is occupied by more than one person holding in severalty, or is valued at less than two hundred rupees, the Commissioners may impose the entire consolidated rate upon the owner of such house.

Owner to recover from occupier rate paid by owner.

116. If the entire rate is paid by the owner of any house under the last preceding section, such owner may, if there be but one occupier of the house, recover from such occupier half of the rate so paid by such owner; and, if there be more than one occupier, he may recover from each occupier half of such sum as shall bear to the entire amount of rate so paid by him the same proportion as the value of the portion of the house in the occupation of such person bears to the entire value of such house.

Imposition of consolidated rate in the case of bustee land.

117. The entire consolidated rate imposed upon bustee land and the huts built thereon shall, after deducting therefrom a sum equal to one-eighth of such rates, be paid by the owner of such land. The sum deducted shall be

retained by the owner of the land as a set-off against the expenses which may be incurred in collecting the portion of the rate recoverable from the occupiers of the land or the owner or occupiers of huts built thereon, under the provisions of the next succeeding section, and as a commutation of all refunds in respect of huts which are vacant or which may be removed or destroyed during the continuance of the period for which the rate is imposed :

Provided that no additional rates shall be imposed on account of any new huts built or of any huts enlarged during the year for which the valuation remains in force, under the provisions of section 124.

Owner to recover from occupier rates paid by owner.

118. Whenever a rate is imposed on bustee lands, the Commissioners shall cause the land and the huts standing on it to be separately valued, and the owner of the land may recover from the owner of each hut half the consolidated rate paid by him for the land on which the hut stands, and the entire consolidated rate payable on account of the hut.

Owner to have same power for recovering rates as for recovering rent.

119. Every owner who, under the provisions of section 116 and the last preceding section, may be entitled to recover any sum from the occupier of any house or of any portion thereof, or from the owner of any hut, shall have for the recovery of such sum all such and the same remedies, powers, rights and authorities as if such sum were rent payable to him.

Occupier of house or land may be required to furnish name of owner.

120. The Commissioners may, by a notice in writing, require the occupier of any house or land to furnish them, within fifteen days, with the name and address of the owner of such house or land; and such name and address, when so received, shall be registered provisionally in the assessment-book kept under section 128.

On failure occupier liable to owner's rates.

121. If the occupier of any house or land shall refuse or neglect to furnish the information so required of him under the last preceding section, he shall be liable to pay the rates payable by the owner on account of such house or land, and, on non-payment thereof, the Commissioners may recover the same by distress and sale of any moveable property found in the house or on the land :

Provided that no arrear of rate which has remained due from the owner of any house or land for more than one year shall be so recovered from the occupier thereof.

CHAPTER V.

Of the Assessment of Houses and Land.

Annual value

122. For the purpose of assessment under this Act, the annual value of

land and the annual value of any house built for letting purposes or ordinarily let shall be the gross annual rent at which such land or house might reasonably be expected to let from year to year, less, in the case of a house, an allowance of ten per cent. for the cost of repairs, and for all other expenses necessary to maintain the house in a state to command such gross rent. The annual value of any house not built for letting purposes and not ordinarily let shall be five per cent. on the sum obtained by adding the estimated present cost of building the house, less a reasonable amount to be deducted on account of depreciation, if any, to the estimated value of the land valued with the house as part of the same premises.

of house or land how to be ascertained.

When a house is occupied by the owner under such exceptional circumstances as renders a valuation of five per cent. of the cost of building, less depreciation, excessive, a lower percentage may be taken.

The value of land so estimated shall not include the value of any machinery thereon.

123. All valuations of houses made by the Commissioners prior to the commencement of this Act shall remain in force during the period for which they were so made, and, on the expiration of such period, the annual value at which any house is to be assessed shall be fixed by the Commissioners for a period of six years, and thereafter for successive periods of six years:

Annual value to be assessed by the Commissioners; valuation to remain in force for six years.

Provided that, for the purpose of dividing the town into districts under section 129, the Commissioners may retain the valuation of the houses in any part of Calcutta for a further period not exceeding six years, or may, with the same object, make a re-valuation for a less period than six years.

124. Bustee lands with the huts upon them, or lands that are waste or used for agricultural purposes, may be valued annually at the discretion of the Commissioners, and shall be so valued on the application of the owner. When not re-valued, the former valuation shall remain in force from year to year until a re-valuation is made.

Bustee lands may be valued annually.

125. Any house, the valuation of which may have been cancelled on the ground of irregularity, or which for any other reason may have no annual value legally assigned to it, may be valued at any time under section 122 for such period as remains unexpired in the district in which it is included under section 129.

Intermediate valuation in certain cases.

126. If, during the currency of any period mentioned in section 123, any substantial alteration and improvement is made to any such house, the Commissioners may cause such house to be again valued, even though such period has not expired, and such last-mentioned valuation shall be in force, and the

When substantial improvement made, Commissioners may re-value.

rate shall be imposed according to it, until the expiration of the said period of valuation.

When substantial injury done, Commissioners may re-value.

127. If, during the currency of any period mentioned in section 123, the value of such house shall suffer depreciation from any cause proved to the satisfaction of the Commissioners to have been beyond the control of the owner or occupier thereof, the Commissioners shall, as soon as practicable on application being made to them in writing by the owner or occupier of such house, cause it to be again vulued, even though the currrent period of valuation has not expired, and such last-mentioned valuation shall be in force, and the rate shall be imposed according to it, until the expiration of the said period of valuation:

Provided that, if any substantial alteration and improvement shall be made, prior to the expiration of the said period of valuation, to the house which shall have been again valued as aforesaid, the Commissioners may cause such house to be again valued as under the last preceding section.

Annual value fixed to be entered in a book.

128. The annual value fixed by the Commissioners as hereinbefore provided shall be entered in a book to be kept at the office of the Commissioners, wherein shall also be written—

(*a*) number of premises;

(*b*) description of premises;

(*c*) name of person primarily liable to pay the rate;

(*d*) amount of valuation;

(*e*) amount of rate payable quarterly;

(*f*) if exempted, the ground of exemption.

This information may be contained in as many books as the Commissioners may, from time to time, determine, which shall together constitute a book to be called the "assessment-book."

When the name of the owner or occupier is not known, it shall be sufficient to designate him in the assessment-book as the "owner" or "occupier."

Owner or occupier may apply to have his name entered as owner or occupier in assessment-book.

Any owner or occupier may at any time apply to the Commissioners to have his name entered as owner or occupier in the assessment-book, and the Commissioners shall, unless there is sufficient reason to refuse such application (which refusal shall be in writing), cause such name to be entered in the assessment-book.

Where there are gradations of owners or occupiers, and doubt exists as to who is entitled to be registered as owner or occupier of any premises, the Commissioners shall determine which of the several owners or occupiers is entitled to be registered as such, and their decision shall remain in force for the purposes of this Act till set aside by the order of a competent Court.

No owner or occupier whose name is not entered in the assessment-book shall be entitled to object that any bill, notice of demand, warrant or other notice of any kind required by this Act to be served on the owner or occupier of any house or land has not been made out in his own name:

Provided that any person who has paid the owner's share of the consolidated rate for the last preceding quarter may, if there is no opposition to his application to be registered as owner but such application is rejected or postponed for want of evidence, claim to have his name provisionally registered as owner, and when his name is so provisionally registered he shall enjoy all the privileges and incur all the liabilities attaching to the owner of any house or land under this Act so long as no other person claims to be registered as owner.

Person paying owner's share of consolidated rate may be registered provisionally as owner.

A list shall be published annually, in such manner as the Commissioners may determine, stating the names of all persons who are provisionally registered and the premises in respect of which they are so registered.

Any name provisionally registered as that of an owner of any premises shall after three years, if no objection be taken, be transferred to the assessment-book as that of the owner of such premises.

129. For the purpose of valuing houses for a period of six years, the Commissioners shall divide Calcutta into such and so many districts as they may think fit, and proceed to make separate valuation district by district, and shall enter the same in the assessment-book.

New valuations or measurement to be made.

130. The Commissioners, by a notice in writing, may require the owner or occupier of any house or land to furnish them with returns of the measurements and of the rent or annual value thereof; and the Commissioners, or any person authorized by them in that behalf, may at any time between the hour of seven in the forenoon and sunset enter on, and inspect, survey and measure such house or land after giving a notice in writing of not less than twenty-four hours.

Returns may be required for purpose of valuation.

131. Whoever refuses or fails to furnish any such return for the space of one week from the day on which he shall have been required so to do, or knowingly makes a false or incorrect return, and whoever hinders, obstructs or prevents any Commissioner, or any person appointed by the Commissioners as aforesaid, from entering or inspecting or measuring any such house or land, shall be liable to a fine not exceeding two hundred rupees for every such offence.

Penalty

132. When the valuation of any of the districts into which Calcutta may have been divided by the Commissioners in accordance with the provisions of section 129 shall have been completed, the Commissioners shall give public notice thereof, and of the place where the statement of valuations of all the

Public notice of valuation to be given.

houses included in such district may be inspected. Such notice shall be by advertisement in at least two English newspapers, and in two Vernacular newspapers, published in Calcutta, and also by placards posted up in conspicuous places throughout such district.

And the person in whose custody the statement of valuations may be shall permit any person, being the owner or occupier of any house or land included in the district or the agent of such owner or occupier, to inspect the records and to make extracts therefrom without payment of any fee, and any person not being such owner or occupier to inspect and make extracts, in like manner, on payment of a fee of one rupee in respect of each entry extracted.

Notice when valuation made for first time or increased.

133. The Commissioners shall, in all cases in which any house is for the first time valued, or in which the valuation of any house previously valued is increased, give special notice thereof to the owner or occupier of the same, and, when the valuation is increased as aforesaid, the said notice shall state the grounds of such increase.

Notice to be given before re-valuing bustee land.

134. Before re-valuing any bustee or other land under section 124 the Commissioners shall give notice to the owner of the land that, on or after a date not less than fifteen days from the receipt of such notice by the owner of the land, such re-valuation will take place, and, if the valuation so made exceeds the previous valuation, the Commissioners shall give to the owner a special notice of the amount of the valuation with full details thereof.

Person dissatisfied with valuation to give notice of objection.

135. Any person who is dissatisfied with a valuation made under this Chapter shall in the case of houses, within fifteen days after the publication of the notice referred to in section 132, or after receipt of the notice referred to in section 133, when such notice is received after the publication of the notice referred to in section 132, and in the case of bustee or other land within fifteen days after the receipt of the special notice referred to in section 134, deliver at the office of the Commissioners a notice in writing stating the grounds of his objection.

Objection to be entered in register and to be investigated and determined by Chairman or Vice Chairman.

136. All such objections shall be entered in a register to be maintained for the purpose, and, on receipt of any objection, notice shall be given to the objector of a day and place when his objection will be investigated.

On the day and place notified, the Chairman or Vice-Chairman (if the case is referred to him by the Chairman) shall hear the objection in the presence of the objector if he shall appear, or the Chairman or Vice-Chairman may, for reasonable cause, adjourn the investigation. When the objection has been determined, the order passed shall be recorded in the register of objections, together with the date of such order.

137. Any person dissatisfied with the orders passed on his objection may appeal to the Court of Small Causes having jurisdiction in the place where the house, land or bustee land is situated. Such appeal shall be presented to the Court of Small Causes within thirty days of the decision of the objection under section 136, and shall be accompanied with an extract from the register of objections containing the orders objected to. No appeal shall be admitted unless an objection has first been taken under section 135.

Person dissatisfied with decision of Chairman or Vice-Chairman may appeal to Small Cause Court.

138. The valuation by the Commissioners when no appeal therefrom is made as hereinbefore provided, and the adjudication of any appeal under the last preceding section when an appeal is made, shall be final and binding.

Valuation by Commissioners when to be final.

139. The valuation made by the Commissioners, subject to such alterations as may from time to time thereafter be duly made, shall be entered in the assessment-book, and the assessment calculated on the said valuation shall, subject to such alterations as aforesaid, be deemed to be the amount payable during the whole period for which the valuation is in force, and this period shall be calculated from the commencement of the quarter next succeeding that in which any such amendment shall be so authenticated; and until such date the old valuation shall continue in force, notwithstanding that the period for which it was made may have expired.

Valuation to be entered in assessment-book.

140. The Chairman or Vice-Chairman may at any time amend the assessment-book by inserting therein the name of any person whose name ought to be so inserted, or by inserting any house or land liable to the rate, or by inserting a valuation when the house or land liable to be valued has not been valued, after giving notice to any person interested in the making of the amendment of a day, not being less than fifteen days from the date of the service of such notice, when such amendment is to be made; the Chairman or Vice-Chairman may also strike out the name of any person, or any house or land not liable to the rate, or reduce the amount of the valuation without notice:

Alteration or amendment of valuation.

Provided that no reduction shall be made inconsistent with the provisions of section 138.

If any amendment shall be made in cases where notice is required, the same shall be deemed to have been made on the expiration of fifteen days after service of the said notice; and any person interested in such amendment may object by application in writing to the Commissioners, to be left at their office three clear days before the day fixed in the said notice, and the provisions of sections 135, 136, 137 and 138 shall, so far as may be practicable, apply to such objection.

CHAPTER VI.

Of levying the Rates.

Bills to be presented.

141. When any rate is due, the Commissioners shall cause to be presented to the person liable to the payment thereof a bill for the sum due, which shall also contain a statement of the period and a description of the property for which the rate is charged.

Notice of demand.

142. If the bill is not paid by the person liable to pay the same within seven days from the presentation thereof, the Commissioners may cause to be served upon such person a notice of demand in the form prescribed in the fifth schedule, or to the like effect; and, if he shall not, within seven days from the service of such notice of demand, pay the sum due, or show sufficient cause to the satisfaction of the Commissioners for non-payment of the same, such sum, with all costs, may be levied by distress and sale of the moveable property of the defaulter, or, if the defaulter be the occupier of any house or land in respect of which a rate is due, by distress and sale of any moveable property found on the house or land, whether actually belonging to the defaulter or not, and a warrant in the form contained in the sixth schedule, or to the like effect, to be issued for that purpose by the Commissioners:

Distress.

Provided that, when the premises in respect of which the default is committed are a place of business, and the moveable property distrained is shown to the satisfaction of the Commissioners to have been left there for repairs or safe custody in the ordinary course of business, it shall be released.

For every notice of demand under this section which the Commissioners shall cause to be served upon any person, a fee, not exceeding one rupee, shall be payable.

Such fee shall be added to the amount of the rate in respect of which the notice is given, and, if not duly paid, may be levied in the same manner as such rate may be levied.

Inventory; notice of distress.

143. The officer charged with the execution of a warrant of distress under the last preceding section shall forthwith make an inventory of the moveable property seized under such warrant, and shall at the time give a notice in writing in the form contained in the seventh schedule, or to the like effect, to the person in possession thereof at the time of the seizure, that the said moveable property will be sold as therein mentioned.

144. If the warrant is not in the meantime discharged or suspended by the Commissioners, the moveable property seized shall be sold and the proceeds, or such part thereof as may be necessary, shall be applied in discharge of the said arrears and costs;

and the surplus, if any, shall be returned on demand to the person in possession of the moveable property at the time of the seizure.

All distresses under this Chapter shall be reasonable and the amount of property seized shall be proportionate to the arrears due, and all sales of property under this section shall, so far as may be practicable, be regulated by the procedure now in force or hereafter to be in force in the Court of Small Causes with respect to sale after distress.

Fees shall be payable upon warrants issued under this Act according to the rates set forth in the table of fees contained in the eighth schedule.

All officers and servants of the Corporation are prohibited from purchasing any property at any such sale.

Goods of defaulters, wherever found, may be distrained.

145. The moveable property of any person from whom any rate is due may be distrained, wherever the same may be found, for default in payment of the money due from him.

Rate due from owner may be recovered from occupier and deducted by him from his rent.

146. If the sum due on account of any rate from the owner of any house or land remains unpaid after notice of demand has been duly served, the Commissioners may demand the amount from the occupier or any of his sub-tenants for the time being of the house or land, and, on non-payment thereof, may recover the same by distress and sale of any moveable property found on the house or land, as provided in section 142, and, in such case, the occupier or his sub-tenant may deduct, from the next and following payments of his rent, the amount which may be so paid by, or recovered from, him:

Provided that no arrear of rate so due shall be recovered from the occupier if it has been due for more than one year, or for a period during which the occupier was not in occupation.

Rates due from vendor may be recovered from purchaser.

147. The purchaser of any house or land for which any sum is due on account of the rate payable by the owner at the time of such purchase shall be liable for the amount due on account of such rates for any period not exceeding one year prior to the purchase.

Distress not unlawful for want of form.

148. No distress levied under this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the notice, schedule, summons, notice of demand, warrant of distress, inventory or other proceeding relating thereto, nor shall such party be deemed a trespasser on account of any irregularity committed by him; but all persons aggrieved by such irregularity may recover, in any Court of competent jurisdiction, full satisfaction for any special damage sustained by them.

Commissioners may sue instead of

149. Instead of proceeding by distress and sale, or in case of failure to realize by distress and sale the whole or any part of the sum due in respect of

proceeding by distress.

any rate, the Commissioners may sue, in any Court of competent jurisdiction, the person liable to pay the same.

CHAPTER VII.

Of the Water-supply.

Commissioners to provide water-supply.

150. The Commissioners shall provide a supply of water within all parts of Calcutta, and shall, for that purpose, cause such mains and pipes to be laid, and such tanks, reservoirs or other works to be made and constructed as shall be necessary for the supply of filtered water in the principal public streets, and shall also erect sufficient and convenient stand-pipes or pumps for the gratuitous use of the inhabitants for domestic purposes.

Ships lying at the jetties or in the docks of the Port Commissioners shall be entitled to the gratuitous use of filtered water for domestic purposes while so lying.

Ships to be supplied with water for a voyage.

151. The Commissioners shall, on demand, be bound to supply every ship leaving the port with a reasonable quantity of filtered water for use on the voyage at such price, not exceeding five rupees for every thousand gallons, as the Commissioners in meeting may, from time to time, determine.

What are not domestic purposes.

152. A supply of water for domestic purposes shall not include a supply of water for animals, or for washing carriages where such animals or carriages are kept for sale or hire, or a supply for any trade, manufacture or business, or for fountains, or for watering gardens or roads, or for any ornamental or mechanical purposes.

Pressure at which water must be kept.

153. The Commissioners shall, so far as may be reasonably practicable, between the hours of six in the forenoon and eight in the afternoon, keep and maintain throughout their pipes and mains a sufficient supply of filtered water under a pressure of not less than ten feet for the domestic use of the rate-payers, and shall every day, for not less than two hours in the forenoon and one hour in the afternoon, maintain a pressure of water in the service pipes and mains sufficient to raise the water in all houses and places in which the same may be introduced within the area at present supplied to a height of not less than thirty feet, and shall test the purity of the water supplied once every week or at such intervals of time as the Commissioners in meeting may direct.

Supply for business.

154. The Commissioners may supply water through a meter, for other than domestic purposes, if the person requiring such supply make application to the Commissioners in writing, specifying the purpose for which such supply is required and the quantity likely to be consumed.

The Commissioners may thereupon, subject to such charges or rates as

may have been fixed by the Commissioners in meeting, lay down, or allow to be laid down, the necessary communication-pipes and works of such dimensions and character as may be fixed by the Commissioners.

No meter shall be necessary in any case in which the applicant agrees to pay such sum per mensem for the use of the water as may be fixed by the Commissioners.

When water is supplied by the Commissioners through a meter, it shall be presumed that the quantity indicated by the meter has been consumed until the contrary is proved.

Penalty.

Any person using water supplied by the Commissioners for other than domestic purposes without the leave of the Commissioners shall be liable to a fine not exceeding twenty rupees.

Householder entitled to certain supply of water for domestic use.

155. The occupier of every house connected with the water-supply shall be entitled to have, free of further charge, three thousand gallons of filtered water for every rupee paid to the Commissioners as water-rate on account of such house, to be supplied from the service pipes of the Commissioners for domestic use, through a ferrule of the size prescribed in the ninth schedule. If the Commissioners have reason to believe that the occupier of any house consumes more filtered water than he is entitled to as aforesaid, it shall be lawful for the Commissioners to provide a water-meter at their own expense, and attach the same to the water-pipes of the said house; and any water which may be used over and above the quantity to which the occupier is entitled as aforesaid shall be paid for by him at the rate of one rupee for every three thousand gallons:

Provided that no charge shall be made by the Commissioners for unfiltered water supplied under the next succeeding section.

Commissioners may provide filtered or unfiltered water for latrines.

156. It shall be at the option of the Commissioners to provide filtered or unfiltered water for all latrines and water-closets; and, wherever filtered water has been already supplied to such latrines or water-closets, it shall be lawful for the Commissioners, at their own expense, and not otherwise, to stop the supply of filtered water, and in lieu thereof to provide unfiltered water for such latrines and water-closets.

All latrines and water-closets to be provided with cisterns.

157. All latrines and water-closets now supplied, or hereafter to be supplied, with water filtered or unfiltered shall be provided with a cistern of such size and description and in such position as the Commissioners shall direct; and all such cisterns shall be put up at the expense of the owner of the house or land so supplied with water.

Communication-pipes to be made of required dimensions

158. Whenever the Commissioners shall deem it practicable and consistent with the maintenance of an efficient water-supply, they shall allow any person living in a masonry house and paying the water-rate hereinbefore mentioned to

and at expense of house-holder.

lay down communication-pipes from the service pipes of the Commissioners for the purpose of bringing into his house or land a supply of water for domestic use in accordance with the scale of ferrules prescribed under the ninth schedule:

If ferrule prescribed by schedule insufficient, Commissioners shall permit use of larger ferrules.

Provided that, if the house is so situated that the size of the ferrule prescribed for the use of such house under such scale is insufficient to pass the daily supply of water which the occupier of such house is entitled to receive under section 135, the Commissioners shall permit the use of a ferrule of such size as shall be sufficient to pass such supply:

Commissioners may replace existing ferrule by another.

Provided also that the Commissioners may, at their own expense, replace any ferrule, used for the supply of water to any house at the time when this Act comes into force which is of larger size than the occupier of such house under such scale is entitled to use, by a ferrule of the size prescribed under such scale for the use of such house:

Provided also that the Commissioners shall be at liberty to turn off or to cut off the supply of water to any house or land during the time the said house or land is unoccupied.

The communication-pipes leading the water from the service pipes of the Commissioners into the house of any rate-payer, and the pipes and works within the house connected therewith, shall be of such character, dimensions and material as the Commissioners shall fix and approve, and shall be made and constructed at the expense of the person requiring the same.

Communication-pipes, works and fittings must be made to satisfaction of the Commissioners.

159. The ferrules, communication-pipes and all fittings thereon leading water from the service pipes of the Commissioners into any house or land, and the pipes, works and fittings inside the house or land, must in all cases be executed subject to the inspection and to the satisfaction of the Commissioners.

Such communication-pipes, works and fittings may be made by the servants and workmen of the Commissioners upon such terms as may be agreed upon between the Commissioners and the person requiring the supply, or subject to such charges as may be fixed by the Commissioners;

and the Commissioners may require the amount neccessary for the execution of such works to be paid or deposited before such works are executed;

and such charges and expenses shall be recoverable in the same manner as the water-rate.

Power to enter premises.

160. The Commissioners may, between the hours of seven in the forenoon and five in the afternoon, enter into or on any house or land supplied with water as aforesaid in order to examine all pipes, works and fittings connected

with the supply of water, and to ascertain if there be any waste or misuse of such water;

and, if the Commissioners at any such time be refused admittance into such house or land for the purposes aforesaid, or be prevented from making such examination as aforesaid, they may forthwith turn off or cut off the water from such house or land:

Provided that nothing hereinbefore contained shall authorize an entry into any room appropriated for the zanana or residence of women, which by the custom of the country is considered private, unless a notice in writing of not less than four hours be given.

When pipes are out of repair, Commissioners may cut off or turn off water.

161. In the event of any pipes, works or fittings connected with the supply of water to any house or land being at any time found on examination by the Commissioners to be out of repair to such an extent as to cause any waste of water, the Commissioners may cause the water to be turned off or cut off from the house or land, after giving notice in writing of not less than twenty-four hours to the person in occupation thereof, and may recover the expense incurred for cutting off the water from the occupier of such house or land.

Water may be turned off or cut off on neglect to pay the rate.

162. If any person supplied with water shall neglect to pay the water-rate hereinbefore mentioned at any of the times of payment thereof, or the charge made for the said water when supplied for other than domestic purposes, the Commissioners may cause the water to be turned off or cut off from the house or land in respect of which such rate or charge is payable, and may recover the expense from such person:

Provided that the turning off or cutting off the supply of water shall not relieve any person from any penalties or liabilities which he may otherwise have incurred.

Occupier in whose house water is wasted liable to penalty.

163. The occupier of any house or land in which water supplied by the Commissioners under this Act is, from negligence or other circumstances under the control of the said occupier, wasted, or in whose house or land the pipes, works and fittings for the supply of water shall be found to be out of repair to such an extent as to cause any waste of water, shall be liable to a fine not exceeding twenty rupees.

Person causing waste of water liable to penalty.

164. Any person causing waste of water supplied by the Commissioners shall be liable to a fine not exceeding five rupees.

Commissioners at their discretion may

165. It shall be within the discretion of the Commissioners to allow any person not residing within the limits of Calcutta to take or be supplied with water for his domestic use on such terms as the Commissioners in meeting

allow person outside the town to take water. Penalty.

may from time to time prescribe. And any person taking or causing to be taken for use outside the limits of Calcutta water supplied by the Commissioners without the permission of the Commissioners shall be liable to a fine not exceeding fifty rupees.

Person executing any work for laying on water must hold a license from the Commissioners.

166. It shall not be lawful for any person to execute any work in connection with the laying on of water from any service pipes of the Commissioners to any house or land or in connection with the extension of such pipes or the supply of additional fittings after such water has been laid on, unless he shall hold a license from the Commissioners authorizing him to act as a plumber under such rules and regulations as the Commissioners may from time to time lay down, and which shall be printed on the back of his license. Any person licensed by the Commissioners as a plumber, who shall infringe or break any rules or regulations under which he holds his license, shall be liable to have his license at once cancelled by the Commissioners, and shall also be liable to a fine not exceeding twenty rupees;

Penalty.

and any unlicensed person executing any such work shall be liable to a fine not exceeding fifty rupees.

Penalty on owner or occupier causing work for laying on water to be executed by unlicensed plumber.

167. Any owner or occupier of any house or land who shall cause or allow works, pipes or fittings for the supply of water from the service pipes of the Commissioners to be executed by any person other than a plumber licensed by the Commissioners shall be liable to a fine of fifty rupees, and the Commissioners may cut off the connection until such pipes have been removed or replaced to their satisfaction.

Before connection, Engineer of the Commissioners to cause all works and pipes to be inspected.

168. Before a connection for the supply of water from the service pipes of the Commissioners to any house or land is sanctioned by the Commissioners, the Engineer of the Commissioners shall cause all the works, pipes and fittings within the said house or land to be inspected by a duly qualified officer; and the cost of such inspection shall be payable in advance, at such rates as the Commissioners in meeting shall from time to time direct, by the person applying for the said connection; and until the Engineer of the Commissioners shall have certified that the said works, pipes and fittings have been executed and put up in a satisfactory manner, a connection with the Commissioners' service pipes shall not be permitted.

Connection with service pipes to be executed only by an officer of the Commissioners.

169. The connection with the service pipes of the Commissioners, as also the laying of supply pipes under any public road or thoroughfare, shall be executed in the presence of an officer of the Commissioners authorized in that behalf and in no other way.

Penalty on

170. If any licensed plumber shall execute any works or put up any

fittings within any house or land for the supply of water from the pipes of the Commissioners in a careless and negligent manner, or make use of bad materials or fittings, the said licensed plumber shall be liable to a fine not exceeding twenty rupees, and upon a third conviction shall be liable to have his license cancelled at the discretion of the Commissioners.

Licensed plumber who executes works badly.

171. Any person who shall unlawfully flush, draw off, divert or take water from any water-work belonging to, or under the management or control of, the said Commissioners, or shall by any wrongful act damage such water-work or any pipe connected with it, or shall use such water-work for any purpose other than the purpose for which it has been set apart, shall be liable to a fine not exceeding one hundred rupees.

Penalty on person unlawfully flushing, drawing off, diverting or taking water.

172. The occupier of any masonry house holding direct from the owner thereof may, by notice in writing, signed by him, require the owner of such house to perform all such necessary works as may be required for bringing into such house a supply of water for domestic use.

Power to require owner to provide works for water-supply.

Every such notice shall contain an agreement on the part of such occupier to pay interest at the rate of one per cent. per mensem, calculated from the date of the completion of the works, on the cost of such works during the residue of his term of occupation :

Provided that, if the house and the premises belonging thereto shall not abut upon some street in which there is a supply-main, such occupier shall, in the agreement, undertake to pay the cost of connecting the house with the nearest supply-main.

173. If any owner shall not, within the space of one month from the service of such notice as is mentioned in the last preceding section, cause such necessary works as aforesaid to be completed, the occupier, who shall have given such notice, may cause the same to be completed, and may deduct from the rent payable by him the cost of such works save so much of such cost as may be incurred in connecting with a supply-main any house and premises belonging thereto which may not abut upon a street in which there may be a supply-main, and such deduction shall be made by six equal monthly instalments.

Power to occupier to make works in default of owner.

Interest on each such instalment shall be payable to the owner by the occupier at the rate of one per cent. per mensem, from the time when it shall have been so deducted.

174. In case there shall be any difference between the owner of any premises and the occupier respecting the cost or the sufficiency of the water-supply of such house, either the owner or the occupier may refer such difference to the Commissioners, and the written award of the Engineer of the

Power to refer to Commissioners as arbitrators.

Commissioners, or of any officer authorized by them in that behalf, shall be binding on the owner and the occupier.

Fee on reference.

175. There shall be payable to the Commissioners in respect of every such reference a fee at the rate of two rupees for every one hundred rupees of the monthly rent of the house or land in respect of the water-supply to which the difference may have arisen :

Provided that such fee shall in no case exceed ten rupees, and shall be paid by the person making the reference.

Owner to keep works in repair.

176. Except in the case of a special agreement to the contrary, the owner of any house or land shall bear the expense of keeping all works connected with the supply of water to such house or land in substantial repair, and if he fails to do so the occupier may himself have the repairs executed and deduct the amount expended thereon from any rent which is due from him to the owner in respect of the premises where such repairs have been executed :

Provided that nothing in this section shall affect the liabilities of parties under leases executed or made previous to the commencement of this Act.

Power of recovery by owner of sums payable.

177. Any owner to whom any sum is payable under sections 172 and 173 may recover such sum from the person liable to pay the same as if the same were rent payable by such person for the house in respect of which the expenses have been incurred.

Works erected for the reception or transmission of water vested in the Commissioners.

178. All public tanks, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes, pumps and other water-works, whether made, laid or erected at the cost of the Commissioners or otherwise, and all bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank, shall become vested in the Commissioners.

Water fouled by offensive trades.

179. If any person being the proprietor of any gas-works,

or being engaged or employed in the manufacture or supply of gas,

or being the occupier or owner of any place where an offensive trade or manufacture is carried on,

does any act connected with the said business whereby the water in any stream, tank, reservoir, well, cistern, conduit, aqueduct or other water-works belonging to the Commissioners is fouled or corrupted, the Commissioners may, at any time between sunrise and sunset, lay open and examine any pipes, conduits and works belonging to such person :

and if, upon such examination, it appears that the water has been fouled or corrupted by anything proceeding from or contained in the pipes, conduits or works examined, the Commissioners shall forthwith take all necessary measures to purify the water and put the works in efficient order, and the expenses

of such examination, purification or repairs shall be paid by the person to whom such pipes, conduits or works belong, or under whose management or control they may be;

but if it appear that the water has not been so fouled or corrupted, then such expenses, and all damages occasioned by the examination, shall be paid by the Commissioners.

180. Any sum due for water supplied by the Commissioners under a meter, or by agreement when a meter is dispensed with, may be recovered as if the same were a water-rate due under this Act.

Any sum due for water recoverable as a water-rate.

CHAPTER VIII.[a]

Of the Registration of Births and Deaths.

181. The Commissioners shall keep in their office a register of all births and deaths in Calcutta, and for this purpose shall divide it into such and so many districts as they shall think fit, and for every such district shall appoint a person to be a registrar of births and deaths within such district; and the Commissioners shall, at each registered or licensed burial and burning ground, appoint a sub-registrar for the registration of all corpses brought to such burial or burning ground for interment or cremation.

Commissioners shall keep a register of births and deaths, and appoint registrars.

182. Every registrar shall dwell within the district of which he is registrar, and every sub-registrar shall dwell in the vicinity of the burial or burning ground for which he is appointed; and they shall cause their names, with the addition of registrar for the district, or sub-registrar for the burial or burning ground, for which they shall be so appointed, to be placed in some conspicuous place on or near the outer door of their own dwelling-houses; and the Commissioners shall cause to be printed and published a list containing the name and place of abode of every registrar and sub-registrar in the town.

Every registrar to live in his district; list of registrars to be published.

183. The Commissioners shall cause to be prepared and printed a sufficient number of register-books for making entries of all births and deaths which may take place in Calcutta, according to the forms prescribed in the tenth and eleventh schedules, and the pages of such books shall be numbered progressively from the beginning to the end.

Commissioners to have register-books prepared and numbered.

184. Every registrar shall inform himself of every birth and of every death which shall happen in his district, and shall ascertain and register, as soon as conveniently may be after the event, without fee or reward, the particulars required to be registered according to the forms in the tenth and

Registrar to inform himself of, and register, births and deaths.

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[a] As to vaccination of children whose births are registered under this chapter, see Ben Act V of 1880, s. 18, *supra*, p. 480.

eleventh schedules, respectively, touching every such birth and every such death, as the case may be, which shall not have been already registered; every such entry being made in order from the beginning to the end of the book.

Information of birth to be given within eight days.

185. The father or mother of every child born in Calcutta, or, in the case of the death, illness or absence or inability of the father and mother, the occupier of the house in which such child is born shall, within eight days after the day of the birth, give information to the registrar of the district, according to the best of his or her knowledge and belief, of the several particulars by this Act required to be known and registered touching the birth of such child.

Information of death to be given.

186. The nearest relative present at the death or in attendance during the last illness of any person dying in Calcutta, or, in case of the death, illness, inability, absence or default of such relative, every person present at the death, or, in case of their default, the occupier of the house, or, if the occupier be the person who shall have died, some person living in the house in which such death shall have happened, shall forthwith give information to the registrar of the district, or sub-registrar at the burial or burning ground where the corpse of such person so dying is buried or burnt, according to the best of his knowledge and belief, of the several particulars by this Act required to be known and registered touching the death of such person:

Provided that if any one person gives the required information all other persons are thereby released from the obligation imposed upon them by this section:

Provided also that, in lieu of the information hereinbefore stated, in the case of persons dying in any hospital in Calcutta, it shall be the duty of the medical officer in charge forthwith to send a notice in writing to the Commissioners in the form prescribed in the eleventh schedule of the occurrence of any death in the hospital under his charge.

Medical man to give information as to cause of death.

187. Any medical man in attendance during the last illness of any person dying in Calcutta shall, within seven days of his becoming cognizant of the death of such person, send a notice in writing to the Commissioners, as near as may be, in the form prescribed in the eleventh schedule, stating, to the best of his judgment, the cause of death.

Penalty.

188. Any person whose duty it shall be to give information under the three last preceding sections who shall refuse or neglect to give such information, or who shall give false information, shall be liable to a fine not exceeding twenty rupees.

Person giving information

189. Every person by whom the information contained in any register of births or deaths under this Act shall have been given shall sign in the register

his name, description and place of abode; and no such registration shall be deemed to be complete or of any effect until such person shall have so signed it: to sign the register.

Provided that the registrar may fill up and sign the register for any person who is unable to write:

Provided also that the registration of death shall be deemed to be complete on receipt by the Commissioners of the written notice from the medical officer in charge of a hospital prescribed in section 186.

190. It shall not be lawful for any sexton or keeper of a burial or burning ground, whether situated within Calcutta or not, to bury, burn or allow to be buried or burnt, any corpse of a person who has died in Calcutta, unless such corpse is accompanied by a certificate in the form prescribed in the eleventh schedule, and signed by a registrar or sub-registrar appointed under section 181, or by a medical officer: Corpse must be accompanied by a certificate before it is buried or burnt.

Provided that at every burial or burning ground where there is a sub-registrar who keeps a register in the prescribed form an entry in such register shall be deemed sufficient.

Every sub-registrar shall, within twenty-four hours of registering any death under this section, forward to the registrar of the district in which the death occurred a copy of the entry made by him, and the registrar on receipt thereof shall forthwith enter the death in the district register.

191. Whoever buries, burns or allows to be buried or burnt, a corpse without the certificate or entry in a register mentioned in the last preceding section shall be liable to a fine not exceeding one hundred rupees. Penalty.

CHAPTER IX.

Of taking a Census.

192. At such times and in such manner as the Commissioners may from time to time appoint, an account shall be taken of the number of persons who at the time of taking such account shall be within Calcutta; and the persons employed in taking such account shall set down the several particulars respecting the same which are hereinafter prescribed. Account of population to be taken.

193. The Chairman or Vice-Chairman, or any person specially appointed by the Commissioners in meeting for that purpose, shall superintend the taking of such account, and shall cause to be prepared and issued, for the use of the persons to be employed, such forms and instructions as he shall, with the sanction of the Local Government, deem necessary; and the expenses thereby incurred shall be paid by the Commissioners. Chairman or Vice-Chairman, or other person specially appointed, to superintend the taking of an account of the population.

Enumeration districts.

194. Each police division of Calcutta shall be formed into one or more enumeration districts.

At the appointed time occupiers of houses shall give the required information.

195. At such times as shall be appointed under section 192, and as shall be notified in the Calcutta Gazette by the Local Government, every occupier of a dwelling-house, or of any part of a dwelling-house distinctly occupied, and every person to whom a form as mentioned in section 197 may have been delivered, shall afford such information in regard to all persons who were abiding in his house, or in the place under his charge, on the night immediately preceding the day appointed for the return of the form, and in such manner as may under this Act be required of them.

Persons to be employed as enumerators.

196. The Chairman, or the person appointed under section 193, shall select a sufficient number of competent persons to act as enumerators; and every such enumerator, under the direction of the Chairman, shall visit every house within his district, and, except as hereinafter provided, shall take an account in writing of the name, sex, age, caste, nationality and occupation of every living person who shall abide therein on the night immediately preceding the day appointed as aforesaid, and shall also take an account of the occupied houses, and the houses then being built and therefore uninhabited, and also of all other uninhabited houses within his district, and in all respects conform to, and obey, the instructions which may be issued to him by the Chairman in this behalf:

Provided that no female shall be required to disclose her name or age.

Forms for census.

197. The Chairman, or the person appointed as aforesaid, when he deems such a course to be advisable, may cause such a form as shall be sanctioned by the Commissioners in meeting, subject to the approval of the Local Government, to be delivered to any occupier of any dwelling-house who may be able to write; and such occupier shall fill in all the particulars required in the form on the day to be appointed, and shall deliver the same to the person authorized to demand the same.

Military and naval officers and certain others, if required, to act as enumerators.

198. Any military or naval officers in command of bodies of military or naval men, or of vessels of war, or any master of a merchant vessel, or nacodah, or tindal of a vessel or boat, or any person in charge of a lunatic asylum, hospital or prison, or of any public or private charitable or scholastic institution, or any keepers of hotels or lodging-houses, shall, if required, act as enumerators for the purpose of taking account of persons under their command or charge, or abiding in their houses, on the night immediately preceding the day to be appointed.

Penalty.

199. Whoever, being required under section 197 to fill in any form,

or under section 198 to act as an enumerator, fails to do so, shall be liable to a fine not exceeding one hundred rupees for every such offence.

Every person so required to act as an enumerator shall receive and conform to all instructions in writing which may be issued to him by the Chairman, or the person appointed as aforesaid in that behalf.

Returns of houseless persons.

200. The Chairman, or the person appointed as aforesaid, shall obtain, by such ways and means as shall appear to him best adapted for the purpose, and as shall be sanctioned by the Commissioners in meeting, returns of the particulars required by this Act with respect to all houseless persons and all persons who, during the said night immediately preceding the day to be appointed, were on out-door night duty, or for any other reason were not abiding in any house of which account is to be taken by the enumerators.

Enumerators to fill in for those unable to write.

201. The enumerators shall fill in all forms for those persons who are unable to write.

CHAPTER X.

Of Streets and Building Regulations.

Part I.—Of the Streets.

Public streets vested in the Commissioners.

202. All public streets in Calcutta (not being the property and kept under the control of the Government or the Commissioners for making Improvements in the Port of Calcutta) and the pavements, stones and other materials thereof, and also all erections, materials, implements and other things provided for such streets, shall vest in, and belong to, the Commissioners.

Power to make and improve streets.

203. The Commissioners, making due compensation to the owners and occupiers of any houses or land which may be required for, or in connection with, any such purposes, may—

(*a*) lay out and make new streets;

(*b*) build and construct new bridges and sub-ways;

(*c*) turn, divert, discontinue or permanently or temporarily close any public street or part of a public street; and

(*d*) widen, open, enlarge or otherwise improve any such street.

Power to acquire premises for improvements of public streets.

204. The Commissioners in meeting may—

(*a*) acquire any land required for the purpose of opening, widening, extending or otherwise improving any public street, or of making any new public street, and the buidings, if any, standing upon such land;

(*b*) acquire, in addition to the said land and the buildings, if any, standing thereupon, all such land with the buildings, if any,

standing thereupon, as it shall seem expedient for the Commissioners to acquire outside of the regular line of such street:

Provided that, without the special sanction of the Local Government, not more than one hundred feet shall be acquired on either side of the regular line of the street;

(*c*) lease or sell or otherwise dispose of any land or building purchased under clause (*b*).

Any re-conveyance of land or of a building under clause (*c*) may comprise such conditions as the Commissioners think fit as to the removal of the existing building, the description of new building to be erected, the period within which such new building shall be completed, and other such matters.

Power to dispose of so much of a permanently closed street as is not required.

205. When any public street is permanently closed under section 203, the Commissioners may dispose of the site of so much of the roadway and footpath as is no longer required, making due compensation to any person injured by the closing of the road and the sale of the site. And, if any dispute shall arise respecting the amount or apportionment of such compensation, it shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses:

Provided that, in determining such compensation, the Court shall make allowance for any benefit conferred on the same premises or any adjacent premises belonging to the same owner by the construction or improvement of any other public street, at or about the same time that the public street, on account of which the compensation is paid, is closed.

Power to prescribe the regular line of public streets.

206. The Commissioners may prescribe a line on each side of any public street within which no portion of any building abutting on the said street shall, after such line has been prescribed, be constructed without the express sanction of the Commissioners.

A line so prescribed shall be called the regular line of a public street.

Power to set back buildings to the regular line of the street.

207. When any house, any part of which projects beyond the regular line of a public street, or beyond the front of the house on either side thereof, has fallen down, or been burnt down, or been taken down in order to be re-built or altered, or such portion thereof as projects beyond the regular line of the street has fallen down, been burnt down or been taken down, the Commissioners may require the same to be set back to or towards the regular line of the street or the line of the adjoining houses:

Compensation to owner for direct damage sustained.

Provided that the Commissioners shall make full compensation thereof to the owner of any such house for any direct damage he may thereby sustain, and, if any dispute shall arise respecting the amount of such compensation, the

same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

By "direct damage" is meant the market-value of the land taken, and the depreciation, if any, in the ordinary market-value of the rest of the land owing to the area being reduced in size; but it shall not include damage due to any particular use to which the owner may allege that he intended to put the ground, but which the reduction of the site may injuriously affect.

Meaning of "direct damage."

208. The Commissioners may, from time to time, prepare plans of proposed public streets showing the alignment of such streets, the intended regular line on each side of them, and such other details as may appear desirable; and, after such plans have been approved of by the Commissioners in meeting, such streets shall be deemed to be projected public streets, and the provisions of section 207 shall apply to all houses which may fall down, be burnt down or may be taken down in order to be re-built or altered, so far as they shall fall within the regular lines of the projected public street.

Projected public street.

209. The Commissioners may, upon such terms as they shall think fit, allow any house to be set forward for improving the line of any public street in which such house is situated.

Houses may be set forward for improving lines of public streets.

210. The Commissioners shall cause the public streets to be maintained and repaired, and for such purpose may do all things necessary for the public safety and convenience.

Maintenance and repair of streets.

211. The Commissioners shall, so far as they may deem requisite for the public convenience, cause the chief public streets to be watered: and for that purpose may provide such works and engines as they may think necessary.

Watering streets.

212. Whoever builds any wall, or without the consent of the Commissioners erects or sets up any fence, rail, post or other obstruction, projection or encroachment in any public street, or in or over any drain, sewer or aqueduct, shall be liable to a fine not exceeding one hundred rupees, and the Commissioners shall have power to remove any such obstruction, projection or encroachment whether they prosecute the offender or not, and the expense of such removal shall be paid by the person erecting the same, and shall be recoverable as hereinafter provided.

Penalty for making obstruction in public streets.

Nothing herein contained shall prevent the Commissioners from allowing any temporary erections in any public street on occasions of festivals and ceremonies, or for building purposes.

Temporary erections on occasions of festivals and ceremonies.

213. Every person who wishes to make or lay out any new street shall give notice in writing thereof to the Commissioners, showing the intended level and width of such street, the arrangements made for draining it, and the

Private persons making a new street.

level and width of every such street and the drainage arrangements shall be subject to approval by the Commissioners.

On receipt of such application the Commissioners shall, within thirty days, either sanction the making of such new street, or disallow it, or ask for further information with respect to it. If further information is asked for, no steps shall be taken to construct the street until orders have been passed upon receipt of such information.

Penalty.

214. Whoever lays out, makes or builds upon any such street, otherwise than in accordance with the level, width and drainage arrangements fixed or approved by the Commissioners, shall be liable to a fine not exceeding five hundred rupees.

Levelling, paving, metalling, flagging, channelling and sewering of streets.

215. If any street or any part thereof be not levelled, paved, metalled, flagged, channelled and sewered to the satisfaction of the Commissioners, they may, by notice in writing to the respective owners or occupiers of the land fronting, adjoining or abutting upon such parts thereof as may need to be levelled, paved, metalled, flagged, channelled and sewered, require them to level, metal, pave, flag, channel and sewer the same within a time to be specified in such notice; and, upon non-compliance, the Commissioners may, if they think fit, execute the works mentioned or referred to therein;

and the expenses thereby incurred shall be paid by the owners in default according to the frontage of their respective lands, and in such proportion as shall be settled by the Commissioners or, in case of dispute, as shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses:

Provided that, after such street shall have been so levelled, paved, metalled, flagged, channelled and sewered on the requisition of the Commissioners, or by the Commissioners as aforesaid, at the expense of the owners, such owners shall have a right to require that the street shall be declared a public street, to be from time to time repaired by the Commissioners out of the general fund.

Certain streets to be deemed public and repaired by the Commissioners.

216. If any street be levelled, paved, metalled, flagged, channelled and sewered, to the satisfaction of the Commissioners, they may, if they think fit, and if three-fourths of the owners of houses in such street signify in writing their consent thereto, by notice in writing put up in any part of such street, declare the same to be a public street, and thereupon the same shall become a public street, and be from time to time repaired by the Commissioners out of the general fund.

Nothing in this section shall preclude the Commissioners in meeting from

taking possession of any street with the consent of the owner or owners thereof, and thereafter such street shall become a public street.

217. The Commissioners shall, from time to time, cause to be put up or painted on a conspicuous part of some house, wall or place, at or near each end, corner or entrance of every public street, such name as the Commissioners in meeting may, from time to time, determine as the name by which such street is to be known; and whoever destroys, pulls down or defaces any such name, or puts up any name different from that put up by order of the Commissioners, shall be liable to a fine not exceeding twenty rupees. Names of public streets. Penalty.

218. The Commissioners may from time to time cause to be fixed a number in a conspicuous place on the outside of any house or at the entrance of the enclosure thereof; and whoever destroys, pulls down or defaces any such number shall be liable to a fine not exceeding twenty rupees. Numbers on houses. Penalty.

When a number has been fixed on a house under this section, the occupier, or if there is no occupier the owner, shall be liable to maintain such number or replace it if removed or defaced; and, if a number is replaced by the Commissioners, they may recover the cost of replacing it from the person liable to replace it in the manner prescribed in Chapter VI for the recovery of rates.

219. All doors, gates, bars and ground-floor windows which open upon any public street shall be hung or placed so as not to open outwards in a manner likely, in the opinion of the Commissioners, to cause obstruction; Doors not to open outwards.

and if any such door, gate, bar or window be hung or placed so as to open outwards on any such public street, the owner of the house or land to which the same is attached shall, within fifteen days after notice from the Commissioners to that effect, cause the same to be altered so as not to open outwards; and, if he neglects so to do, the Commissioners may cause such alteration to be made, and the expenses thereby incurred shall be paid by such owner:

Provided that nothing in this section shall be held to apply to house-shutters so constructed as to fold flat to the wall, whether opening to the ground or not.

220. The owner of every house in any public street shall, within fifteen days after notice from the Commissioners, put up and keep in good condition proper gutters and pipes for catching and carrying the water from the roof and other parts of such house, and for discharging the same in such manner as the Commissioners shall direct; and, in default of compliance with such notice within the period aforesaid, such owner shall be liable to a fine not exceeding ten rupees for every day that he shall so make default. Gutters and pipes to be fixed to houses. Penalty.

221. The Commissioners may give notice in writing to the owner or Projections

erected in future from houses to be removed.

occupier of any house to remove or alter any projection, encroachment or obstruction which shall hereafter be erected or placed against such house or on, or over, any public street, or which has been so erected or placed subsequent to the first day of June in the year 1863, and such owner or occupier shall, within fifteen days after the service of such notice upon him, remove such projection, encroachment or obstruction, or alter the same in such manner as shall have been directed by the Commissioners, and in default thereof shall be liable to a fine not exceeding two hundred rupees, and the Commissioners in such case may, whether they prosecute the offender or not, cause such projection, encroachment or obstruction to be removed, and the expense of such removal shall be paid by the owner or occupier so making default, and shall be recoverable as hereinafter provided:

Provided that, when the expense shall have been paid by the occupier, except in the case in which such projections, encroachments or obstructions were made or put up by him, such occupier shall be entitled to deduct the expense of removing or altering the same from the rent payable by him to the owner of the house.

Removal of existing projections from houses.

Notice of removal.

222. The Commissioners may cause any projection, encroachment or obstruction erected or placed against, on or over any house in any public street previous to the first day of June in the year 1863, to be removed or altered as they think fit: Provided that they give notice of such intended removal or alteration to the occupier of the house against, or in front of which, such projection, encroachment or obstruction shall be, thirty days before such alteration or removal is begun; and, if such projection, encroachment or obstruction shall have been lawfully made, they shall make reasonable compensation to every person who suffers damage by such removal or alteration; and, if any dispute shall arise touching the right of any person to compensation when the right thereto is disputed and the amount thereof, or touching the amount of such compensation when the right thereto, is admitted, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

Compensation when to be made.

Commissioners may allow certain projections from houses.

223. The Commissioners may give permission in writing, on such conditions as they think fit, to the owners or occupiers of houses abutting on any public street to put up verandahs, balconies, sunshades, weather-frames and the like, to project from any upper storey thereof over any public street, and on breach of any such condition the Commissioners may give the owner or occupier notice to comply with such condition within fifteen days, and, if he fails to comply, it shall be lawful for the Commissioners to enter upon the premises

and remove any projection put up in breach of any condition specified in the notice.

Roofs and external walls of huts not to be made of inflammable materials.

224. The external roofs and walls of huts or other buildings erected or renewed within Calcutta after the commencement of this Act shall not be made of grass, leaves, mats or other such inflammable materials; and it shall not be lawful for the owner of any hut or other building in or near any street (public or otherwise) now having an external roof or wall made of any such material, and which is contiguous to, or adjoining, any other building, to suffer such roof or wall to remain after the commencement of this Act, unless with the consent in writing of the Commissioners; and whoever makes any external roof or wall of such materials, or suffers any roof or wall made of such materials to continue contrary to the provisions herein contained, and who shall not remove or alter the same within one month after notice in writing from the Commissioners, shall be liable to a fine not exceeding ten rupees for every day that such roof or wall shall be maintained.

Penalty.

Nothing in this section shall ordinarily apply to garden huts, orchid houses, ferneries or similar erections within compounds:

Provided that, if in any particular case the Commissioners consider any such erection dangerous, they may require the same to be removed or altered, and thereupon the provisions of this section shall apply:

Provided also that this section shall not apply to the area by this Act added to Calcutta, or to any area hereafter included in it under section 458, until it shall have been specially extended to the whole or any portion thereof by a resolution passed by the Commissioners in meeting.

Commissioners may direct hedges to be trimmed.

225. The Commissioners may give notice to the owner or occupier of any house or land to trim or prune the hedges thereof bordering on any public street to a height not exceeding seven feet;

or to cut and trim trees overhanging any public street, and obstructing the same or causing damage thereto;

and, if such notice is not complied with within three days from the date thereof, the Commissioners may cause such hedges and trees to be cut in the manner required, and the expenses thereby incurred shall be paid by the owner of the house or land.

Commissioners breaking up street to restore the same with all convenient speed.

226. When the pavement or surface of any public street, or when any sewer or drain, shall be opened or broken up by the Commissioners, they shall, with all convenient speed, complete the work on account of which the same shall have been broken up, and fill in the ground, and make good the pavement and surface, and the sewer or drain so opened or broken up, and

carry away the rubbish occasioned thereby; and shall in the meantime cause the place where such pavement or surface shall be so opened or broken up to be fenced and guarded and sufficiently lighted during the night.

Situation of gas and water pipes may be altered by Commissioners.

227. If the Commissioners deem it necessary for the purposes of this Act to raise, sink or otherwise alter the situation of any water-pipe, or gas-pipe or other water-works or gas-works laid in any street (public or otherwise), they may, from time to time by notice in writing, require the person to whom any such pipes or works belong, or under whose control they may be, to cause forthwith, or as soon as conveniently may be, any such pipes or works to be raised, sunk or otherwise altered in position in such manner as the Commissioners direct.

Alteration not to permanently injure works, and to be done at Commissioners' expense.

Such alteration shall not be such as permanently to injure such works, or to prevent the water or gas from flowing as freely and conveniently as before; and the expenses attending such raising, sinking or altering, and full compensation for the damage done thereby, shall be paid by the Commissioners as well to the persons to whom such pipes or works belong as to all other persons.

Settlement of disputes.

And, if any dispute shall arise touching the amount or apportionment of such compensation, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

Upon neglect to make alterations, Commissioners may cause the same to be made.

228. If the person to whom any such pipes or works as are mentioned in the last preceding section belong, or under whose control they may be, do not proceed forthwith, or as soon as conveniently may be after the receipt of the notice mentioned in the last preceding section, to cause the same to be raised, sunk or altered in such manner as the Commissioners require, the Commissioners may themselves cause such pipes or works to be raised, sunk or altered as they may think fit:

Provided that such works be not permanently injured thereby, or the water or gas prevented from flowing as freely and conveniently as before.

No one to deposit materials or make holes in a public street.

229. No person shall deposit any building materials or make a hole in any public street without the permission of the Commissioners in writing; and, when such permission is granted to any person, he shall, at his own expense, cause such materials or such hole to be sufficiently fenced and enclosed, until the materials are removed or the hole is filled up and otherwise made secure, and shall cause the same to be sufficiently lighted at night; and, if he neglect to sufficiently fence or light the same, and any damage or injury arises, he shall be liable to the Commissioners for any expense which they may incur by reason of such neglect.

230. Whoever deposits materials or makes a hole without such permission, or encloses more of the public street than the Commissioners have permitted him to enclose, or fails to fence or enclose and light such materials or hole, or does not remove such materials or fill up such hole when the permission has lapsed or been withdrawn, shall be liable to a fine not exceeding fifty rupees, and to a further fine not exceeding fifty rupees for each day during which the offence is continued after he has been convicted of such offence. **Penalty.**

The Commissioners may cause any such hole to be filled up, and may cause any such materials to be removed, and may detain them until the expenses connected with such removal shall have been paid.

231. If any building, tank, well or hole or other place be, for want of sufficient repair, protection or enclosure, dangerous to passengers or to persons living in the neighbourhood, the Commissioners may, by notice in writing, require the owner of the land to repair, protect or enclose the same; and, if he fails to comply with such requisition during eight days from the service thereof, the Commissioners shall cause the same to be repaired, protected or enclosed, so as to prevent danger therefrom; **Dangerous places near streets to be repaired or enclosed.**

and the expenses thereby incurred shall be paid by the owner of the property so repaired, protected or enclosed.

232. Whoever, being an owner of land, fails to comply with the requisition mentioned in the last preceding section shall be liable to a fine not exceeding two hundred rupees, and to a further fine not exceeding fifty rupees for every day during which the offence is continued after he has been convicted of such offence. **Penalty.**

Part II.—Of Building Regulations regarding Houses.

233. If any building, or anything affixed thereon, be deemed by the Commissioners to be in a ruinous state, or likely to fall or to be in any way dangerous, they shall immediately, if it appears to them to be necessary, cause a proper hoard or fence to be put up for the protection of passengers, and shall cause notice in writing to be given to the owner, if he be known and resident in Calcutta, and shall also cause such notice to be put on some conspicuous part of such building, or otherwise to be given to the occupier thereof (if any), requiring such owner or occupier forthwith to take down, repair or secure such building, or thing affixed thereon, as the case shall require. **House in a ruinous and dangerous state.**

If such owner or occupier does not commence to take down, repair or secure the same within three days after such notice, or fails to complete such **If owner does not take house down.**

Commissioners may do so.

work with due diligence, the Commissioners shall cause all or so much of such building or thing as they shall think necessary, to be taken down, repaired or otherwise secured, and the expenses thereby incurred shall be paid by the owner.

The provisions of sections 207 and 208 shall apply to houses taken down or repaired under the provisions of this section.

Sale of materials of ruinous houses.

234. If any building, or any part of the same, be taken down under the provisions of the last preceding section, the Commissioners may sell the materials thereof, or so much of the same as shall be taken down, and apply the proceeds of such sale in payment of the expenses incurred, and shall, on demand, restore to the owner any surplus arising from such sale.

The Commissioners shall have the same remedies for compelling the payment of so much of the said expenses as may remain due after the application of the proceeds of such sale as by this Act are given to them for compelling the payment of the whole of the said expenses.

Plan of site to be submitted before beginning to build a house.

235. Before beginning to build any new house or to convert any hut or any temporary structure into a house, the person intending so to do shall obtain the sanction of the Commissioners to the site on which he proposes to build. With this object he shall submit a plan drawn to the scale of forty feet to the inch, showing the position of the house with reference to—

(*a*) some existing public street; or

(*b*) some projected public street approved of by the Commissioners in meeting under section 208; or

(*c*) some existing private street; or

(*d*) some proposed private street which it is intended to construct under section 213.

Such plan shall also show the position and approximate height of all other masonry houses within forty feet of the proposed site:

Provided that, for special reasons, the Commissioners may sanction any site without reference to its position in relation to any public or private street.

Commissioners within thirty days to signify approval or disapproval of such plan.

On receipt of such plan, the Commissioners shall, within thirty days, signify in writing their approval of such site, or their disapproval thereof as not being a proper site with reference to—

(*a*) the street shown in such plan; or

(*b*) any other street or projected street on which it will abut; or

(*c*) the position of the adjacent buildings.

If the street shown in the plan is a proposed private street, the Commissioners may at their discretion decline to approve of the site till such private street is commenced or completed:

Provided that, where any site is disapproved by reason of its falling wholly or in part within the lines of any projected public street, the owner of such site shall be entitled to reasonable compensation if the site or the portion thereof that falls within such lines be not acquired by the Commissioners in meeting under section 204 within one year after the date of such disapproval.

Compensation when to be made.

Until the approval of the site is signified in writing, the house shall not be constructed.

236. Before beginning to build any new house on a site approved of under the last preceding section, or to re-build or materially alter the structure of any house, the person intending so to do shall make an application to the Commissioners in a printed form to be prepared by them for this purpose (for which no charge shall be made), setting forth the description of the building, the purposes for which it is intended, its dimensions, such plan of the building as the form may specify, and such other details as may be deemed requisite to enable the Commissioners to pass orders on such application.

Application in a certain form to be made before beginning to build or re-build.

237. On receipt of such application the Commissioners shall within thirty days, by a written order, either sanction the building of the new house, or for any one or more of the reasons set forth in the next succeeding section disallow it, or call for further information on all or any of the following details:—

Within thirty days after receipt of application Commissioners to sanction or disallow buildings, or for specified reasons to call for further information.

(*a*) plans and sections of every floor of the intended building which shall be drawn to a scale of not less than one inch to every eight feet, and shall show the position, form and dimensions of the several parts of such building and of every water-closet, privy, urinal, cesspool, well and other appurtenance, and in the case of a building intended as a dwelling-house for two or more families, or for carrying on any trade or business in which a number of people, exceeding twenty, may be employed, or as a public resort, the means of ingress and egress;

(*b*) a description in writing of the materials of which it is intended that the building shall be constructed, of the thickness of the walls and roof, and of the intended mode of drainage, means of water-supply and means of ventilation, and, if the building is to adjoin or abut on a street, the intended means of access from such street;

(*c*) the width and level of the street, if any, in front, and of the street, if any, at the rear of such building, the levels of the foundations and lowest floor of such building, and of any yard or ground belonging thereto;

(*d*) a plan showing the intended line of drainage of such building, and of the intended size, depth and inclination of such drain, and of the details of the arrangements proposed for the ventilation of the drains.

If such requisition be not complied with, the application made under section 236 shall be deemed to have been cancelled.

The Commissioners may decline to accept any plan, section or description as sufficient for the purposes of this section, which does not bear the signature of a competent builder or surveyor in token of its having been prepared by such builder or surveyor.

Within thirty days from receipt of details Commissioners to pass orders with regard to proposed building.

238. Within thirty days after the receipt of the details, required to be given under the last preceding section, the Commissioners shall pass orders in writing, either approving of the proposed buildings or disapproving thereof for any of the following reasons :—

(*a*) that it will be unsafe; or

(*b*) that it encroaches upon or over municipal land; or

(*c*) that its construction contravenes some specified provision of this Act, or some specified bye-law made under this Act.

If the Commissioners disapprove of the building for any of the above reasons, it shall not be proceeded with till such modifications have been made as to satisfy the requirements of the Commissioners.

Ground plan and application may be submitted together.

239. Nothing in sections 235 and 236 shall be deemed to preclude any person intending to build a new house from sending in simultaneously the ground plan required by section 235 and the application required by section 236, as also at his discretion all or any of the plans and details specified in section 237 :

Provided that the period of thirty days after the receipt of the application shall not commence to run till the site has been approved of. If the proposed work be not commenced within one year after the date of approval, it shall not be commenced without a fresh application being submitted under the provisions of section 236.

Power to demolish a building commenced without submis-

240. If any building such as is referred to in section 235 be commenced without sending in the ground plan required by that section, or, after such ground plan has been sent in, before the site has been approved of by the

Commissioners, the Commissioners may cause such house, or so much of it as has been constructed, to be demolished.

sion of a ground plan or without the site being approved.

Power to demolish or alter a building for failure to comply with sections 236 or 237.

241. If any building or alteration such as is referred to in section 236 be commenced without the application required by that section being sent to the Commissioners, or before the expiration of the thirty days or of any subsequent period of thirty days prescribed by section 237 or otherwise than in accordance with the information furnished in the application or in the further details and plans subsequently called for, or in contravention of any lawful orders issued by the Commissioners under section 238, the Commissioners may cause such work as has been done to be demolished or altered in such manner as they may think fit, and the expenses thereby incurred shall be paid by the person failing to comply with the requirements of the Act.

Penalty.

242. The Commissioners may, in addition to or in lieu of exercising the powers conferred on them by section 240 and the last preceding section, prosecute any person who shall build a new house without sending in the ground plan required by section 235, or who shall build or re-build or materially alter the structure of any house without making the application required by section 236, and such person shall, on conviction, be liable to a fine not exceeding one hundred rupees, and to a further fine not exceeding twenty rupees for every day during which the offence is continued after he has been convicted of such offence.

Provisions applicable to buildings constructed under section 236.

243. The following provisions shall apply to buildings which it is proposed to construct under section 236 :—

(*a*) the levels and width of foundation shall be such as the Commissioners consider satisfactory;

(*b*) no house shall be built upon a lower level than will allow of the drainage of such house or building being led into some public sewer then existing or projected, or into some tidal river into which the Commissioners are empowered to empty their sewers;

(*c*) the plinth of such building shall be at least two feet above the centre of the nearest street;

(*d*) the building shall not be erected over any sewer or drain belonging to the Commissioners without their written consent;

(*e*) every privy shall be so situated and so constructed as not to be a nuisance to the neighbours or dangerous to the health of the inmates;

(*f*) every building shall be provided with adequate ventilation;

(*g*) no building shall cover a greater portion of the ground belonging to the owner of it and forming part of the same or adjacent premises than is consistent with the free circulation of air, supposing the owners of contiguous lands to cover their land with buildings to the same extent.

If Commissioners fail to pass orders within thirty days, person may build or re-build house.

244. If the Commissioners fail to pass orders within thirty days, as required by sections 237 and 238, the person making such application may, notwithstanding anything hereinbefore contained, proceed to build or re-build the house.

Hoards to be set up during repairs.

245. Every person intending to build or take down any house or to alter or repair the outward part of any house, where any public street will be obstructed or rendered inconvenient by means of such work, shall, before beginning the same, cause sufficient hoards or fences to be put up, in order to separate the house where such works are being carried on from the street, and shall keep such hoard or fence standing and in good condition, to the satisfaction of the Commissioners, during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted:

Provided that no person shall put up a hoard or fence without the written permission of the Commissioners, and shall not keep up such hoard or fence for a time longer than that specified in such written permission.

Penalty.

246. Every person who begins to build, or to take down, or alter or repair any house contrary to the provisions of the last preceding section, or who, without a license, erects or sets up any hoard, scaffolding or fence whatsoever, or who, having obtained permission, fails to put up such fence or hoard, or to maintain the same standing and in good condition, or who does not, while such hoard or fence is standing, keep the same sufficiently lighted, or who does not remove the same when the time specified in the permission has elapsed, shall be liable to a fine not exceeding fifty rupees for every such offence, and to a further fine not exceeding twenty rupees for each day during which the offence is continued after he has been convicted of such offence.

Part III.—Of Building Regulations regarding Huts and Bustees.

Notice in prescribed form to be given before building a hut.

247. Before beginning to build, re-build or add to any hut, the person intending so to do shall make an application to that effect to the Commissioners in a form to be provided by them (for which no charge shall be made). Such form shall require a ground plan of the hut drawn to the scale of eight

feet to the inch and such other details as the Commissioners may prescribe. On receipt of such application, the Commissioners shall, within fourteen days, express their approval of the proposed work, or disapproval on any one or more of the following grounds:—

(*a*) that the site is ill-chosen with reference to adjacent huts or with reference to any present or proposed roads;

(*b*) that the ventilation will be defective;

(*c*) that the arrangements for scavenging or drainage are defective;

(*d*) that the hut will be within thirty feet of a tank;

(*e*) that the hut will be on the site of a tank which has been so recently filled up as to be prejudicial to the health of a person dwelling in it;

(*f*) that the plinth is not two feet above the level of the centre of the nearest street;

(*g*) that the erection of the proposed hut will infringe some specified bye-law made under this Act.

If the proposal is approved the hut may be built, re-built or added to at any time within six months after the date of sanction. If it is disapproved on any of the grounds above stated, the work shall not be commenced till such modifications have been made in the plan of the proposed hut as the Commissioners may deem necessary.

Power to demolish hut built without sanction.

248. If any hut be built, re-built or added to without making such application to the Commissioners as is required by the last preceding section, or before the approval of the Commissioners has been obtained under that section, the Commissioners may cause such hut or so much of it as has been constructed to be demolished or altered in such manner as they may prescribe; and the expenses of such demolition or alteration shall be paid by the person failing to comply with the provisions of this Act.

Penalty.

249. The Commissioners may, in addition to, or in lieu of, exercising the powers conferred on them by the last preceding section, prosecute any person who builds, re-builds or adds to any hut in contravention of the provisions of section 247, and such person shall be liable to a fine not exceeding one hundred rupees for any such offence, and to a further fine not exceeding twenty rupees for every day during which the offence is continued after he has been convicted of such offence.

If Commissioners fail to pass

250. If the Commissioners fail to pass orders within fourteen days as required by section 247, the person making such application may, notwith-

orders, the person making application may proceed to build or re-build the house.

standing anything hereinbefore contained, proceed to build or re-build the house.

Powers of Commissioners with respect to bustees.

251. The Commissioners may define the external limits of any bustee, and may from time to time modify such limits; and, for the purposes of this Act, land comprised within such limits shall be deemed to be a bustee:

Provided that every bustee shall consist of one or more complete plots of bustee land, separately numbered as such in the assessment-book, and no plot bearing only one number shall be divided so as to fall within the limits of separate bustees. The existence of one or more houses with the land attached thereto, within the limits defined as above, shall be no bar to the bustee lands within such limits being deemed to be a bustee:

Provided also that the Commissioners shall have no power under this Part of exercising any control over such houses and land attached, except by acquiring the whole or any portion of them by purchase or in the manner provided by Chapter XIII, Part II.

Commissioners may call upon bustee owners to furnish a standard plan.

252. The Commissioners may at any time serve a notice upon the owners of a bustee, calling on them to prepare a joint plan thereof to the scale of forty feet to the inch, showing the manner in which such bustee should be laid out with the huts standing in regular lines and with a free passage in front of and behind each line, of such width as may be necessary for ventilation and for scavenging. The plan shall also show the proposed drains of the bustee, the water-supply, bathing arrangements (if any), and the privy accommodation to be provided for the use of the tenants, the roads which are to be maintained for their benefit, the land, if any, which is to be kept as common land, the tanks which are to be filled up or conserved, and any other proposed improvements.

Plan finally approved by Commissioners to be taken as standard plan.

Such plan, when prepared as above, shall be considered by the Commissioners, and such modifications shall be made therein as the Commissioners shall require. After any plan has been finally approved of by the Commissioners, it shall be taken as the standard plan of the bustee. If any land within the limits of a bustee is not bustee land, the standard plan shall be so prepared as clearly to distinguish it from the bustee land.

When a call has been made on the owners of the bustee to prepare a joint plan under this section, no hut shall be built re-built or added to within the bustee till a standard plan has been prepared.

253. If the owners of a bustee cannot agree among themselves in the preparation of a joint plan, or if they for any reason prefer to have a joint plan prepared for them by the Commissioners, or if they fail to comply with the notice to submit a joint plan within the space of sixty days, the Commissioners shall, within a further period of sixty days, themselves prepare a plan to the scale and in the manner prescribed in the last preceding section for which they may charge the owners at such rate not exceeding three rupees per bigha as the Commissioners in meeting may fix. The cost of preparing such plan may be recovered as a rate under this Act.

Commissioners, under certain circumstances, may prepare a standard plan.

254. When a plan has been prepared by the Commisioners under the last preceding section, they shall fix a day for the hearing of objections on the part of the owners, and may at their discretion modify the plan in accordance with any objections made. When the objections have been disallowed, or when the plan has been modified in conformity with any objections raised, it shall be approved of by the Commissioners, and shall thereafter be taken as the standard plan of the bustee.

Objections to Commissioners' plan to be entertained.

255. When a standard plan has been prepared for any bustee under sections 252 or 254, no hut shall be built, re-built or added to in such bustee, unless the hut or the portion to be added occupies a site, or portion of a site, marked as the site for a hut in the standard plan. The Commissioners may, at any time by paying compensation to the owner of any hut not in conformity with the standard plan, require him to take down his hut and re-build it in conformity with such plan. Such compensation shall, in the event of dispute, be determined in the manner provided in this Act for the settlement of disputes respecting damages and expenses.

Commissioners may require huts to be built in conformity with the standard plan.

The Commissioners may at any time serve a notice upon the owners of any bustee, calling upon them to construct the roads, privies, drains and other details shown in the standard plan of any bustee, so far as may be practicable in the existing arrangement of the huts, and, if any tank is shown as to be filled up or improved, may call upon the owner to fill up or improve such tank. Till such notice is complied with, the Commissioners may refuse to sanction the building or re-building of any hut in the bustee, or any addition to any existing hut.

256. When a bustee has been brought into conformity with a standard plan which has been prepared for it it shall be deemed to be a remodelled bustee.

Remodelled bustees.]

257. When it appears to the Commissioners in meeting that any bustee is, by reason of the manner in which the huts are crowded together, or for any

Report by medical officers on

unhealthy bustees

other reason, in such an unhealthy condition that the procedure provided by sections 252 to 256 will be too dilatory for improving such bustee, they may cause it to be inspected by two medical officers, who shall make a report in writing on the sanitary condition of the said bustee.

Such report shall be accompanied by a plan which shall be approved of by the medical officers as a proper standard plan of the bustee, and they shall certify which of the changes necessary to bring the bustee into conformity with the proposed standard plan should be taken in hand forthwith, in consequence of the unhealthy condition of the bustee, and which can await the procedure prescribed in sections 252 to 256. The former changes shall be shown in a schedule attached to the report to be called Schedule A; and this schedule shall clearly indicate the huts which should wholly or in part be removed, the roads and drains which should be constructed, the tanks or low lands which should be filled up, and any other works necessary to remove or abate the unhealthy condition of the bustee. If, for the purpose of making such roads or effecting any other improvement, it is necessary to purchase or acquire any land within the bustee which is not bustee land, the schedule shall specify the land which should be purchased or acquired.

On receipt of report, Commissioners may cause notice to be served.

258. On receipt of the report of the medical officers, the Commissioners in meeting may cause a notice to be served upon the owners or occupiers of the huts, or, at the option of the Commissioners, the owner of the land on which such huts are built, requiring them to carry out and execute within a reasonable time, to be fixed by the Commissioners for such purpose, all or any of the works specified in the aforesaid Schedule A annexed to the report, or any portion thereof respectively.

The Commissioners in meeting shall also approve of the standard plan prepared by the medical officers with such modifications as they may deem proper.

Commissioners may carry out works if owners or occupiers refuse.

259. If, after the service of the notice referred to in the last preceding section, such owners or occupiers, or the owners of the land, shall refuse or neglect to carry out and execute the said works within the time appointed, the Commissioners may cause all or any of the said works, or any portion thereof, respectively, to be executed; and the expenses thereby incurred, including such reasonable compensation as the Commissioners think fit to pay to the owners or occupiers of huts destroyed or removed, shall be paid by the owners of the land:

Expenses may be recovered by

Provided that the Commissioners in meeting may order the expenses so incurred to be recovered by instalments from the said owners of the land, or, if

it should appear to them that any such owner is unable by reason of poverty to pay the same, may order the same or any portion thereof to be paid out of the general fund.

instalments or remitted in case of poverty.

260. If any of the said huts be pulled down, the Commissioners shall cause the materials of each hut to be given to the owner of the hut; or, if the owner be unknown, or the title disputed, the materials shall be sold, and the proceeds shall be held in deposit by the Commissioners until the person interested therein shall obtain an order from a competent Court for the payment of the same.

Sale of huts.

A Court of Small Causes shall be deemed a competent Court for the purpose.

261. The Commissioners may, at any time, after the receipt of the report of the medical officers, acquire by purchase, or in the manner provided by Chapter XIII, Part II, any land other than bustee land shown in that report as land which should be acquired.

Commissioners on the report of medical officers may acquire land.

262. After the works specified in Schedule A attached to the report filed under section 257, or so much of such works as are approved by the Commissioners in meeting, have been completed, the provisions of section 255 shall apply to such bustee until it is brought into complete conformity with the standard plan approved in accordance with the provisions of section 258, after which the bustee shall be deemed to be a remodelled bustee.

When an unhealthy bustee to be deemed remodelled bustee.

263. No standard plan, prepared under sections 252, 253, 257 or 268, shall, without the consent of the owners, show more than one-fifth of the area of the bustee as roads or more than one-half as open lands not to be built upon, whether such open land be common ground, roads or spaces behind a line of huts; but no tank that is not filled up shall be taken into account in calculating the above proportion. The proposed standard plan shall also, as far as possible, provide for one or more huts being completely contained in each separate plot of bustee land within the bustee and for a due proportion of roadway and open ground in each plot; and, if a greater portion of any one plot is taken for roads or open ground than the proportion allowed by this section, the compensation which should be paid to the owner of this plot and the persons who should pay such compensation by reason of their benefitting thereby shall be specified; if no other owner can be equitably called upon to pay such compensation, it shall be paid by the Commissioners. The compensation thus fixed shall not be payable till the plot belonging to the owner entitled to it has been brought into complete conformity with the standard plan.

Provisions as to standard plan.

264. Any owner of bustee land included within the limits of a bustee may

Effect of

notice of intention to change character of bustee land.

at any time give notice to the Commissioners that he intends to change the character of the whole or of any portion of the land belonging to him, so that it will cease to be bustee land. If his notice refers only to a part of his land, a separate number shall be forthwith assigned in the assessment-book to the part to which the notice applies. From the date of such notice no application shall be received for building, re-building or adding to any hut in the land to which the notice applies, and the owner shall be bound to remove all existing huts within six months after giving such notice. When all the huts have been removed, the land shall cease to be liable to the incidents of bustee land, and, according to its situation, shall either be altogether excluded from the limits of the bustee, or shall be shown in the standard plan of the bustee as land within the said limits which is not bustee land.

Roads in standard plan, if not public streets, remain private.

265. The roads shown in the standard plan of a bustee which are not already public streets shall, unless the Commissioners and the owners concerned otherwise agree, remain private streets; and the portion which falls on the land of each owner shall belong to such owner. Any portion which falls on land acquired or purchased by the Commissioners under section 261 shall remain the property of the Commissioners.

Every such private street shall at all times be kept open to the conservancy carts of the Commissioners for the purpose of scavenging in the bustee, and shall also be kept open for the use of all the tenants of the bustee, but no such use, whether by the conservancy carts or by the tenants, shall be held by any lapse of time to confer a right of way on the public, so as to bring such street within the definition of a "public street."

Roads in a bustee not affected by change of character of bustee land.

266. If any portion of the land which it is sought to remove from the incidents of bustee land is shown in the standard plan of the bustee as a road or part of a road, the notice shall be held not to apply to such road without the express consent of the Commissioners, but such road shall continue part of a private street open to the use of conservancy carts and of the tenants of the bustee.

Owners of a bustee, when standard plan is prepared, deemed occupiers of the open spaces.

267. When a standard plan has been prepared for a bustee, the several owners of the bustee land shall be respectively deemed to be the occupiers of the roads, common ground and of such drains of the bustee as serve more than one hut, so far as constructed in accordance with such standard plan, and the owner of each hut shall be deemed to be the occupier of the land occupied by his hut, of that portion of the open space behind his hut which appertains to it, and of any drain which is for the sole use of his hut.

Power to

268. Notwithstanding anything contained in sections 257 to 262, the

Commissioners in meeting may, upon receipt of the report prescribed under section 257, pass a resolution to the effect that any bustee is an unhealthy area, and that, in the opinion of the Commissioners, the acquisition of the bustee, or any part thereof, by purchase, lease or otherwise, is necessary for the purpose of making the requisite improvements thereon, and shall proceed to make a standard plan for the improvement of such land, and shall forward such plan, accompanied by such estimates as shall be necessary for a due understanding of the same, together with a copy of such resolution, for the consideration and sanction of the Local Government.

purchase, improve and re-sell or lease unhealthy areas.

On receipt of such sanction, the Commissioners in meeting may acquire such land or any part thereof in the manner provided by Chapter XIII, Part II.

When the sanction of the Local Government has been accorded to any standard plan for the improvement of any land acquired by the Commissioners as above provided, the Commissioners in meeting may sell or let any part of the acquired land to any person for the purpose and under the condition that he will, as respects the land so purchased by, or leased to, him, carry out such standard plan.

The Commissioners may, instead of selling or letting the land acquired by them as aforesaid, themselves bring the bustee into conformity with such standard plan.

The Commissioners shall be bound to sell or lease such land in the manner aforesaid, or themselves to carry out the improvement sanctioned under this section within the term of four years from the date of their acquiring such land, unless the Local Government shall specially extend such term.

When a bustee has been improved under this section, it shall be deemed to be a remodelled bustee.

269. The Commissioners in meeting may sanction the employment of a special establishment for the cleansing of bustees, and, when such establishment has been sanctioned, they may impose a rate, to defray the cost of such establishment, on the owners of such bustee:

Commissioners in meeting may levy a rate for cleansing bustees.

Provided that, without the consent of the owners, no such rate shall be levied upon any remodelled bustee.

270. If any bustee, for which no such establishment as is referred to in the last preceding section is maintained, appears to the Commissioners to be in a filthy condition, the Commissioners may serve notices upon the occupiers as defined in section 267, requiring them within three days to cleanse the same, and, if the occupiers do not comply with the terms of such notices to the

Commissioners may require bustees in a filthy condition to be cleansed.

satisfaction of the Commissioners, the Commissioners may cleanse the whole or any portion of the bustee which requires cleansing, and may recover the cost incurred by them from the occupiers of such portions of the bustee as they have cleansed in such manner as a rate may be recovered.

CHAPTER XI.

Of Drainage-works, Drains and Privies.

Commissioners to drain Calcutta.

271. The Commissioners may carry out such a complete system or systems of sewerage and drainage as they may think fit, subject to the approval of the Local Government, and such alterations as may from time to time be ordered by it.

Public sewers, drains, tunnels and culverts vested in Commissioners.

272. All public sewers and drains, and all sewers, drains, tunnels and culverts, in, alongside, or under any public street, whether made at the cost of the Commissioners or otherwise, and all works, materials and things appertaining thereto, shall vest in, and belong to, the Commissioners.

Powers of Commissioners in making public sewers.

273. The Commissioners shall have power to construct within Calcutta, and when necessary for the purposes of outfall or distribution of sewage without Calcutta, such sewers as they may think necessary for keeping the town properly cleansed and drained, and may carry such sewers through, across or under any road, street or place, and after reasonable notice in writing into, through or under any premises or lands whatsoever, and may from time to time enlarge, lessen, alter, arch over or otherwise improve, modify or change or close up or destroy all sewers, vested in them, provided no nuisance is created by such operations; and, if any person is thereby deprived of the lawful use of any drain or sewer, the Commissioners shall provide another as effectual for his use within one hundred feet from some part of his premises. The Commissioners shall cause their sewers to be so constructed, kept and cleansed as not to be a nuisance or injurious to health, and for the purpose of cleansing, flushing and emptying them may construct and place, either above or under ground, such reservoirs, sluices, engines or other works as may be necessary, and may cause such sewers to communicate with, and be emptied into, such places as may be fit and necessary within Calcutta, and if necessary for the purpose of outfall or distribution of sewage without Calcutta, and may cause the sewage and refuse therefrom and from the town to be collected for sale, or for the improvement of land, or for incineration, or for any purpose whatsoever, but not so as to create a nuisance.

If a sewer is carried into, through or under any lands not belonging to the Corporation, the Commissioners shall make compensation to the owner thereof

for any damage sustained by him by reason of such sewer being so carried into, through or under his land. In case of dispute, the amount of compensation payable by the Commissioners shall be determined in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

Bed of stream receiving sewage to be cleared.

274. When the contents of any sewer or drain, or any other flow or filth or refuse, are discharged into any river or stream in the bed or channel of which the quantity of water at any season of the year is so much diminished, by natural or artifical causes, as to be insufficient to keep such channel clean or clear, the Commissioners, with the sanction of the Local Government, may make such alteration in the bed of such river or stream as may prevent such sewer and drain-water from spreading over the surface of such bed, or from accumulating and stagnating in parts thereof to the injury of health or the annoyance of the surrounding population.

Unauthorized drains leading into public sewers may be demolished.

275. If any person, without the written consent of the Commissioners first obtained, makes or alters any drain leading into any of the sewers or drains vested in the Commissioners, or makes such drains, or carries out such alterations, with materials not approved of by the Commissioners, the Commissioners may cause such branch drain to be demolished, altered, re-made or otherwise dealt with as they shall think fit;

and the expenses thereby incurred shall be paid by the person making or altering such branch drain.

Penalty for altering or making unauthorized drains leading into public sewers.

276. Whoever, without the written consent of the Commissioners first obtained, makes or alters any drain leading into any of the sewers or drains vested in the Commissioners by this Act shall be liable to a fine not exceeding two hundred rupees.

Commissioners empowered to make drains from houses which are not properly drained.

277. If any house or land within one hundred feet of a public sewer or surface drain fit for use, or of some tidal river or other place at which the Commissioners are empowered to empty their sewers, be at any time not drained to the satisfaction of the Commissioners by sufficient surface drains or pipes communicating with some sewer, surface drain, tidal river or other place as aforesaid, the Commissioners may, if the owner neglects to do so within fifteen days after notice, construct or lay through or from such house or land suitable drains of such materials, of such size and with such fall, as they shall think necessary for the complete draining of such house or land;

and the expenses thereby incurred shall be paid by the owner.

For the purpose of efficiently draining any house or land under this section, the Commissioners may require any court-yard, alley or passage between two or more houses to be paved with such materials and in such manner as may be

approved of by them, and may require such paving to be kept in proper repair. They may also require the level of any such court-yard, alley or passage to be raised, if necessary, for the efficient drainage thereof.

Commissioners may construct certain portions of drains under public drains and streets.

278. The Commissioners themselves may construct and lay down such portions of the drains mentioned in the last preceding section and sections 282 and 283 as may be carried through or under any public drain, aqueduct or street;

and the expenses thereby incurred shall be paid by the owner.

Sewage and rain-water drains to be distinct.

279. Whenever it is provided in this Chapter that steps shall or may be taken for the effectual drainage of any premises, it shall be competent to the Commissioners to require that there shall be one drain for sewage and polluted water, and another and an entirely distinct drain for rain-water or unpolluted subsoil water, or for both, each emptying into separate municipal drains or other suitable places.

Underground drains connected with the sewers to be made under a license.

280. It shall not be lawful for any person to make any underground drains in connection with the public sewers unless he shall hold a license from the Commissioners under such rules and regulations as the Commissioners may, from time to time, lay down, and which shall be printed on the back of the license.

Penalty.

Any person holding such license who shall infringe or break any such rule or regulation shall be liable to have his license cancelled, and he or any person making any underground drain in connection with the public sewers without a license shall be liable to a fine not exceeding twenty rupees.

Supervision of certain works.

281. The Commissioners may cause the work of laying underground drains to be supervised while in progress, and from time to time during their execution may order such reasonable alterations therein, additions thereto and abandonment of part or parts thereof as may to the Commissioners appear, on the fuller knowledge afforded by the opening of the ground, requisite to secure the complete and satisfactory execution of such works as aforesaid.

Group or block of houses may be drained by a combined operation.

282. If it appear to the Commissioners that a group or block of houses may be drained more economically or advantageously in combination than separately, and a sewer of sufficient size already exists, or is about to be constructed, within one hundred feet of any part of such group or block of houses, the Commissioners may cause such group or block of houses to be drained by a combined operation;

and the expenses thereby incurred shall be paid by the owners of such houses, or, in the case of bustee land, by the owners of the land in such proportions as shall to the Commissioners seem fit.

Not less than fifteen days before any work under this section is com-

menced, the Commissioners shall give notice to the owners of all the land or houses to be drained of the nature of the proposed work, and an estimate of the expenses about to be incurred in respect thereof, and the proportion payable by each owner.

Commissioners may require the owner of a drain to allow another to use it.

283. Whenever a drain belonging to one or more persons has been laid in any street or passage common to more than one house, and it is deemed desirable to drain any other permises into such drain, the Commissioners may require the owners of such drain to allow a connection therewith to be made on such terms as may seem to them equitable, and the owner or owners of the drain shall be entitled to refuse to allow the connection to be made until the terms prescribed have been accepted, and any order for payment made by the Commissioners has been complied with.

Sewers in streets to be covered with traps.

284. All underground drains in streets (public or otherwise) shall be provided by the Commissioners or by the persons to whom they severally belong with proper traps or other coverings and means of ventilation so as to prevent stench.

If the owner of any private sewer or underground drains shall, for ten days after notice given to him by the Commissioners, neglect or delay to provide proper traps or coverings and means of ventilation as aforesaid, the Commissioners may forthwith provide and apply the same;

and the expenses thereby incurred shall be paid by the owner.

Power of Commissioners to erect or affix to building pipes for ventilation of sewers.

285. The Commissioners may erect on, or fix to, any house or wall such properly jointed pipes as they may deem necessary for the proper ventilation of the sewers belonging to them, and such pipes shall be carried to a height of not less than six feet above the highest part of the highest adjacent house, and erected so as not to occasion any nuisance or inconvenience to any house in the neighbourhood.

Branch drains, privies, cess-pools, stables, and cow-houses to be under the control of the Commissioners, and to be kept in good order by owners.

286. All branch drains, as well within as without the house or land to which they belong, and all privies, cess-pools, stables and cow-houses in Calcutta, shall be under the survey and control of the Commissioners as regards their site, material, dimensions and construction, and shall be altered, supplied with water, connected with a sewer, paved, repaired, kept in proper order, stopped up or demolished, at the costs and charges of the owner of the house or land to which the same belong, or for the use of which they are constructed or continued;

and, if the owner of any house or land to which any such drain, privy, cess-pool, stable or cow-house belongs neglect, during eight days after notice in writing, to execute the work in the manner required by the Commissioners,

the Commissioners may cause the work to be executed in respect of such drain, privy, cess-pool, stable or cow-house;

and the expenses thereby incurred shall be paid by the owner.

Obstructions in private drains to be removed.

287. If any private drain is obstructed, the occupier of the premises in which such drain is situate shall, within six hours after receiving notice to do so from the Commissioners, cause the obstruction to be removed, and, if he make default, the Commissioners may cause the necessary work to be done;

and the expenses thereby incurred shall be recoverable from such occupier.

Commissioners may alter any branch drain, privy, cess-pool, stable or cow-house made contrary to their order.

288. If any branch drain, privy, cess-pool, stable or cow-house be constructed contrary to the directions, bye-laws or regulations of the Commissioners, or contrary to the provisions of this Act, or if any person, without the consent of the Commissioners, constructs, re-builds or unstops any branch drain, privy or cess-pool which has been ordered by them to be demolished or stopped up, or not to be made, or constructs or re-builds any stable or cow-house which has been ordered by them to be demolished or not to be built, the Commissioners may cause such amendment or alteration to be made in any such branch drain, privy, cess-pool, stable or cow-house as they think fit;

and the expenses thereby incurred shall be paid by the person by whom such branch drain, privy, cess-pool, stable or cow-house was improperly constructed, re-built or otherwise dealt with.

Penalty for persons making or altering drain, contrary to the orders of Commissioners.

289. Whoever constructs any drain, privy, cess-pool, stable or cow-house after the commencement of this Act contrary to the directions, bye-laws or regulations of the Commissioners, or contrary to the provisions of this Act, or whoever, without the consent of the Commissioners, constructs, re-builds or unstops any drain, privy or cess-pool which has been ordered by them not to be made or to be demolished or to be stopped up, shall be liable to a fine not exceeding fifty rupees.

Inspection of branch drains, privies, cess-pools, stables or cow-houses.

290. The Commissioners may inspect any branch drain, privy, cess-pool, stable or cow-house, and for that purpose, at any time between sunrise and sunset, after one hour's notice in writing to the occupier of the house or land to which such branch drain, privy, cess-pool, stable or cow-house is attached, may enter upon such house or land with such assistants and workmen as are necessary, and cause the ground to be opened where they may think fit, doing as little damage as may be;

and if, upon such inspection, it appears that such branch drain, privy, cess-pool, stable or cow-house is not in good order and condition, or that it has been constructed contrary to the provisions of this Act, the expenses of such inspection shall be paid by the person to whom such branch drain, privy, cess-pool, stable or cow-house may belong;

and if any branch drain is choked, or if any other defect connected with such branch drain which requires to be forthwith remedied is brought to light by such inspection, the Commissioners shall then and there clear out the branch drain, or remedy the defect:

but if the branch drain, privy, cess-pool, stable or cow-house be found to be in proper order and condition, and not to have been constructed in violation of the provisions of this Act, the Commissioners shall cause the ground to be closed and made good as soon as may be;

and the expenses of opening and closing the ground shall be paid by the Commissioners.

Penalty for throwing rubbish or permitting any offensive matter or sewage to flow or be put into sewers.

291. Whoever throws or puts, or permits his servants to throw or put, any rubbish, or, until suitable sewers shall be provided, permits any offensive matter or sewage to flow or be put into any sewer or drain belonging to the Commissioners, or into any drain communicating therewith, shall be liable to a fine not exceeding fifty rupees for every such offence.

No latrine to be constructed within fifty feet of a tank.

292. No person shall, without the permission of the Commissioners in writing, construct or keep any latrine, privy, urinal, cess-pool, house-drain or other receptacle for sewage or offensive matter within fifty feet of any public tank, or a tank used by the inhabitants of any locality. Any person upon whose land any latrine, privy, urinal, cess-pool, house-drain or other receptacle so situated shall be now existing or hereafter constructed shall remove the same within eight days of the receipt of a written notice from the Commissioners.

Penalty.

293. Any person failing to comply with the notice mentioned in the last preceding section shall be liable to a fine not exceeding twenty rupees, and to a further fine not exceeding three rupees for every day that the latrine, privy, urinal, cess-pool, house-drain or other receptacle remains within the limits aforesaid.

Commissioners may cause additional privies to be provided for any land.

294. If the Commissioners think that any privy or additional privy should be provided for any house or land, the owner of such house or land shall, within fourteen days after notice in that behalf by the Commissioners, cause such privy, together with the necessary pipes, drains and water-supply, to be constructed in accordance with the requisition of such notice; and, if such privy be not so constructed to the satisfaction of the Commissioners within such period, the Commissioners may cause such privy, together with the necessary pipes, drains and water-supply, to be so constructed;

and the expenses thereby incurred shall be paid by the owner.

Commission-

295. The Commissioners, in executing any works under this Act, shall

ers in executing works to provide proper drains.

provide and make, at their own expense, a sufficient number of convenient ways, water-courses, drains and channels in the place of such as may be interrupted, injured or rendered useless by reason of the execution of such works;

and, if any difference arises between the Commissioners and the persons affected thereby, such difference shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

Bars to be erected across streets during repairs and lights placed at night.

296. The Commissioners shall, during the construction or repair by them of any of the streets, sewers or drains, vested in or belonging to them, take proper precaution for guarding against accident, by shoring up and protecting the adjoining houses;

and shall cause such bars, chains or posts to be fixed across or in any street (public or otherwise) to prevent the passage of carriages, carts, cattle or animals while such works are carried on as to them shall seem proper;

and shall cause any sewer or drain, or other works in streets (public or otherwise), during the construction or repair thereof by them to be sufficiently lighted and guarded during the night.

CHAPTER XII.

Of Sanitary Matters.

Part I.—Of Scavenging and Cleansing.

Cleansing streets.

297. The Commissioners shall cause the public streets to be sufficiently lighted and regularly swept and cleansed, and the rubbish and offensive matter of every kind whatsoever found thereon to be collected and removed every day.

Dust-boxes in streets.

298. The Commissioners may cause any number of moveable or fixed dust-boxes or other convenient receptacles (wherein rubbish and offensive matter arising from the ordinary domestic use of houses may be temporarily deposited until removed and carried away) to be provided and placed in proper and convenient situations, and may require the occupiers of houses in public streets to cause all such matter as aforesaid to be deposited in such receptacles and between such hours as they may from time to time direct:

Provided that no occupier shall be required to deposit refuse in a dust-box at a greater distance than fifty yards from the entrance of his premises.

Penalty.

299. Subject to the proviso contained in the last preceding section, every person who, after such receptacles have been provided, and after such requisition as above mentioned, shall deposit, or cause or permit to be deposited,

any such matter in any public street, except in such receptacles, shall be liable to a fine not exceeding ten rupees.

Penalty for depositing rubbish, offensive matter or sewage in public place.

300. Whoever deposits, or suffers to be deposited, any rubbish, offensive matter or sewage in any public street, or on any public quay, jetty, ghát, or landing place, or on any part of the river bank, whether above or below high-water mark, except in such places, and in such manner, and at such hours, as shall be fixed by the Commissioners, shall be liable to a fine not exceeding ten rupees for every such offence.

Presumption as to offender under section 299 or the last preceding section.

301. If it shall in any case be shown that dust, rubbish, offensive matter or sewage has been thrown or placed on any street or place in contravention of section 299 or the last preceding section from some building or land, it shall be presumed that the offence has been committed by, or with the sufferance of, the occupier of such building or land, unless the contrary be proved.

Penalty for allowing water from sink, sewer or offensive matter to flow, run, drain or be thrown on streets or surface drain.

302. Whoever causes or allows the water of any sink or sewer or any offensive matter belonging to him, or being in any house or land in his occupation, to run, drain or be thrown or put upon any street (public or otherwise), or causes or allows any sewage to run, drain or be thrown into a surface drain not intended for the purpose, in any street (public or otherwise), shall be liable to a fine not exceeding ten rupees for every such offence.

Removal of sewage or offensive matter.

303. The Commissioners from time to time shall appoint—

(*a*) the hours within which sewage or any offensive matter may be removed;

(*b*) the kind of cart or other receptacle in which it may be removed;

(*c*) the route by which such cart or other receptacle shall proceed.

Penalty.

304. When the Commissioners have fixed such hours and given public notice thereof, whoever removes or causes to be removed along any street (public or otherwise) any such sewage or offensive matter at any time, except within the hours so fixed, and also, whoever at any time, whether such hours have been fixed by the Commissioners or not, uses for any such purpose any cart, carriage or other receptacle or vessel other than that approved and sanctioned by the Commissioners, or spills any such sewage or offensive matter in the removal thereof, and does not carefully sweep and clean every place in which any such offensive matter has been so spilled, or places or sets down in any public place any vessel containing such sewage or offensive matter, or drives or takes, or causes to be driven or taken, any cart, carriage, receptacle or vessel used for any such purpose as aforesaid, through any street (public or otherwise), or by any route other than that, from time to time, by public

notice, appointed for that purpose by the Commissioners, shall be liable to a fine not exceeding twenty rupees for every such offence.

Places of deposit for rubbish or offensive matter.

305. The Commissioner shall from time to time appoint or provide places—

(*a*) for the deposit of rubbish or offensive matter collected and removed in accordance with the provisions of this Act;

(*b*) for the deposit of the carcasses of animals removed in accordance with the provisions of this Act; and

(*c*) for keeping all cattle, carts, implements and other things required for the above or any of the purposes of this Act.

Removal of carcasses of animals.

306. The occupier of any premises in or upon which any animal shall die, or upon which the carcass of any animal shall be found, and the person having the charge of any animal which dies in a street or in any open place shall, within three hours after the death of such animal, or if the death occurs at night, within three hours after sunrise, either—

(*a*) remove the carcass of such animal to some receptacle, depôt or place appointed by the Commissioners under section 305 for the temporary deposit or final disposal of such carcasses; or

(*b*) report the death of the animal to the proper officer of the Commissioners, with a view to causing the carcass to be removed.

When any carcass is removed, in the manner provided in clause (*b*), a fee for the removal, of such amount as shall be fixed by the Commissioners, shall be paid by the owner of the animal, or, if the owner is not known, by the occupier of the premises in or upon which, or by the person in whose charge, the same died. The word "animal" in this section includes an elephant, camel, horse, mule, donkey, horned beast, sheep, pig or other large animal.

Penalty.

307. Whoever, being the occupier of any house or land, keeps or suffers to be kept any offensive matter for more than twenty-four hours, otherwise than in a proper receptacle, or suffers such receptacle to be in a filthy or noxious state, shall be liable to a fine not exceeding fifty rupees, and to a further fine not exceeding thirty rupees for each day during which the offence is continued after he has been convicted of such offence;

and the Commissioners may cleanse the premises, and the expenses thereby incurred shall be paid by the occupier.

Rubbish, offensive matter or sewage to be the property of Commissioners.

308. All rubbish, offensive matter or sewage collected from the streets (public or otherwise), houses, privies, sewers and cess-pools, and all carcasses removed under the provisions of section 306, shall belong to the Commissioners, who may sell or dispose of the same as they may think proper, and the money arising from the sale thereof shall form part of the general fund.

309. If any house or land, by reason of abandonment, or of disputed ownership, or other cause, remains untenanted, and thereby becomes a resort of idle and disorderly persons,

Power to shut up, secure, enclose, clean or clear deserted houses.

or becomes in a filthy or unwholesome state, or is complained of by any two or more of the neighbours as a nuisance,

the Commissioners, after due enquiry, may cause notice in writing to be given to the owner, or to the person claiming or believed to be the owner, if he be known and resident in Calcutta, and shall also cause such notice to be put on the door of the house or some conspicuous part of the land, requiring the persons concerned therein, whoever they may be, to secure, enclose, clean or clear the same;

and, if such notice shall not be complied with within eight days, the Commissioners shall cause the necessary work to be executed, and the expenses thereby incurred shall be recovered from the owner or by the sale of any materials found upon such house or land, and the provisions of section 234 shall be applicable to such sale.

310. The Commissioners may provide and maintain, in proper and convenient situations, common necessaries and urinals, and shall cause the same, when provided, to be constructed, and kept so as not to be a nuisance or injurious to health.

Common necessaries.

311. The Commissioners may license, for any period not exceeding one year, such necessaries for public accommodation as they may, from time to time, think proper; and may at any time, on giving one month's notice, if they think fit, cancel any license so granted.

Licensing of public necessaries.

All fees payable under any license granted under this section shall be recoverable from the persons liable to pay the same as if the amounts payable in respect thereof were rates due to the Commissioners from such persons under the provisions of Chapter VI.

Mode of recovering fees.

312. Whoever keeps any public necessary without a license as mentioned in the last preceding section, or, having a license, suffers such public necessary to be in a filthy or noxious state, shall be liable to a fine not exceeding one hundred rupees for every such offence, and to a further fine, not exceeding fifty rupees, for each day during which the offence is continued after he has been convicted of such offence.

Penalty.

313. The Commissioners shall maintain an establishment under their control for the removal of sewage from all houses the privies of which are not connected with the sewers.

Commissioners may organise a house service.

314. The Commissioners in meeting may, by a general order, or by an

Power to

prohibit excavation.

order to affect such portion of Calcutta as may be specified therein, prohibit the making of excavations for the purpose of taking earth therefrom, or for the purpose of storing rubbish or offensive matter therein, and the digging of cess-pools, tanks, well or pits without the special permission of the Commissioners.

If any such excavation, cess-pool, tank, well or pit is made after the issue and publication of such order without such permission, the Commissioners may require the owner and occupier of the land on which such excavation, cess-pool, tank, well or pit is made within two weeks to fill up such excavation with earth or other material approved of by them, and in default the Commissioners may enter upon the land and execute the work;

and the expense thereby incurred shall be paid one-half by the owner and one-half by the occupier of such land.

Power to fill up unwholesome wells, tanks and places where stagnant water has collected.

315. When any well, tank, or marshy ground, or any waste or stagnant water, whether within any private enclosure or not, appears to the Commissioners to be injurious to health or to be offensive to the neighbourhood, the Commissioners may require, by notice in writing, the owner of the same to cleanse or fill up such well, tank or marshy ground with suitable material, or to drain off or remove such stagnant water; and, if he shall refuse or neglect to comply with such requisition during one month from the service thereof, the Commissioners may enter into the said premises, and do all necessary acts for all or any of the purposes aforesaid as they shall think fit;

and the expenses thereby incurred shall be paid by the owner, and until so paid the Commissioners may retain possession of the land or tank or the site of such tank and utilise the same for public purposes.

Penalty.

316. Whoever, being an owner of land, fails to comply with the requisition mentioned in the last preceding section shall be liable to fine not exceeding two hundred rupees, and to a further fine not exceeding fifty rupees for each day during which the offence is continued after he has been convicted of such offence.

Part II.—Inspection and Sanitary Regulation of Premises.

Power to inspect premises for sanitary purposes.

317. The Commissioners may inspect any building or other premises for the purpose of ascertaining the sanitary condition thereof.

Cleansing and lime-washing of any building may be required.

318. If it shall appear to the Commissioners necessary for sanitary reasons so to do, they may, by written notice, require the owner or occupier of any building so inspected to cause the same or some portion thereof, to be lime-

washed or otherwise cleansed, either externally or internally, or both externally and internally, within a time to be specified in such notice.

Buildings unfit for human habitation.

319. If, for any reason, any building intended for or used as a dwelling shall appear to the Commissioners to be unfit for human habitation, they may apply to a Magistrate to prohibit the further use of such building for such purpose; and the Magistrate, after such inquiry as he thinks fit to make, may, by written order, make a prohibition as aforesaid or may pass such other order as he shall deem just and proper.

When any such prohibition has been made, no owner or occupier of such building shall use or suffer the same to be used for human habitation until the Commissioners certify in writing that the causes rendering it unfit for human habitation have been removed to their satisfaction, or the Magistrate, by a written order, withdraws the prohibition aforesaid.

Overcrowded dwellings.

320. If it shall appear to the Commisssioners that any building used as a dwelling is so overcrowded as to endanger the health of the inmates thereof, they may apply to a Magistrate to prevent such overcrowding; and the Magistrate, after such inquiry as he thinks fit to make, may, by written order, require the owner of the building, within a reasonable time, not exceeding six weeks, to be prescribed in the said order, to abate the overcrowding thereof, by reducing the number of lodgers, tenants or other inmates of the said building, or may pass such other order as he shall deem just and proper.

If the owner of the said building shall have sublet the same, the landlord of the lodgers, tenants or other actual inmates of the same shall, for the purposes of this section, be deemed to be the owner of the building.

It shall be incumbent on every tenant, lodger or other inmate of the building to vacate on being required by the owner so to do in pursuance of any such requisition.

Part III.—Of the Prevention of Infectious or Contagious Diseases.

Information to be given of existence of dangerous disease.

321. Every medical practitioner who treats or becomes cognizant of the existence of any case of cholera, small-pox, diphtheria or typhoid fever in any private or public dwelling, other than a public hospital, shall be bound to give information of the same with the least practicable delay to the Commissioners. The said information shall be communicated in such form and with such details as the Commissioners may from time to time require.

The Commissioners in meeting may, with the sanction of the Local

Government, impose a similar obligation with regard to any other dangerous disease.

Commissioners to have power of entry for purpose of preventing spread of dangerous disease.

322. The Commissioners may, at any time, after giving such notice of their intention as shall, under the circumstances, appear to them to be reasonable, enter and inspect any place in which any dangerous disease is reputed or suspected to exist, and take such measures as they shall think fit to prevent the spread of the said disease beyond such place.

Prohibition of use for drinking of water likely to cause dangerous disease.

323. If it shall appear to the Commissioners that the water in any well, tank or other place is likely, if used for drinking, to engender or cause the spread of any dangerous disease, they may, by public notice, prohibit the removal or use of the said water for the purpose of drinking.

No person shall remove or use for the purpose of drinking any water in respect of which any such public notice has been issued.

Commissioners may order removal of patients to hospital.

324. When any hospital or place for the reception of persons suffering from any dangerous, epidemic, endemic or infectious disease has been provided, the Commissioners may, on a certificate countersigned by the Health-officer, and with the consent of the Superintendent of such hospital or place, direct the removal thereto of any male person suffering from any such dangerous disease, who is, in the opinion of such Health-officer, without proper lodging or accommodation.

Disinfecting of buildings.

325. If, upon the certificate of the Health-officer, the Commissioners are of opinion that the cleansing or disinfecting of a building, or of a part of a building, or of any article therein likely to retain infection, would tend to prevent or check the spread of any dangerous disease, they may, by written notice, require the owner or occupier of such building, within a reasonable time, to be prescribed in the said notice, to cleanse or disinfect the same.

If the owner or occupier fails to comply with the said notice, the Commissioners shall cause the building, or part of the building, or article, to be cleansed or disinfected;

and the expenses thereof shall be paid by the owner or occupier:

Provided that, if, in the opinion of the Commissioners, the owner or occupier is, from proverty or other cause, unable effectually to carry out the said requirements, the Commissioners may cleanse or disinfect the building, or part of the building, or article likely to retain infection, at the charge of the general fund.

Destruction of huts and sheds to pre-

326. If the Commissioners are of opinion that the destruction of any hut is necessary to prevent the spread of any dangerous disease, they may, after

giving the owner or occupier thereof reasonable notice, take measures for the destruction of such hut or shed and the materials of which it is constructed. vent spread of disease.

The Commissioners may pay compensation to any person sustaining substantial loss by the destruction of any hut, but no person shall be entitled as of right to claim compensation for any loss or damage sustained by him by reason of the destruction of any hut by the Commissioners under the powers conferred upon them by this section.

327. The Commissioners in meeting may provide a proper place or places, with all necessary apparatus and attendance, for the disinfection of clothing, bedding or other articles which have become infected, and may cause articles brought for disinfection to be disinfected free of charge. Place for disinfection may be provided.

The Commissioners may, from time to time, notify one or more places at which clothing or bedding, or other articles which have been exposed to infection from any dangerous disease, may be washed; and no person shall wash any such article at any public place not so notified without having previously disinfected the same. Also places for washing.

The Commissioners may direct the disinfection or destruction of bedding, clothing or other articles likely to retain infection, and may, in their discretion, give compensation at the charge of the general fund for any article destroyed. Infected articles may be disinfected or destroyed.

328. The Commissioners in meeting may provide and maintain suitable conveyances for the free carriage of persons suffering from small-pox or cholera or from any other dangerous disease in regard to which the Commissioners in meeting may impose a similar obligation; and, when such conveyances have been provided, it shall not be lawful to convey any such person by any other public conveyance. Provision of carriages for conveyance of patients.

The Commissioners in meeting may also provide suitable conveyances for the transport of clothing, bedding or other articles which have been exposed to infection.

329. The owner, driver or person in charge of a public conveyance in which any person suffering from small-pox has been carried shall immediately provide for the disinfection of the same to the satisfaction of the Commissioners. Public conveyance which has carried a person suffering from small-pox to be disinfected.

330. No person shall, without previous disinfection of the same, give, lend, sell, transmit or otherwise dispose of any article which he knows, or has reason to know, has been exposed to infection. Infected articles not to be transmitted without pre-

But nothing in this section shall be deemed to apply to a person who

vious disinfection.

transmits, with proper precautions, any article for the purpose of having the same disinfected.

Person suffering from small-pox not to enter a public conveyance without notifying the same.

331. No person who is suffering from small-pox shall enter a public conveyance without previously notifying to the owner, driver or person in charge of such conveyance that he is so suffering.

Notwithstanding anything contained in any Act relating to public conveyances for the time being in force, no owner or driver or person in charge of a public conveyance shall be bound to carry any person suffering as aforesaid in such conveyance, unless payment or tender of sufficient compensation for the loss and expenses he must incur in disinfecting such conveyance is first of all made to him.

Infected building not to be let without being first disinfected.

332. No person shall let a building, or any part of a building, in which he knows, or has reason to know, that a person has been suffering from any of the diseases specified in section 321 without first having such building or part thereof and every article therein likely to retain infection disinfected to the satisfaction of the Commissioners.

For the purpose of this section the keeper of an hotel or inn shall be deemed to let part of his building to any person accommodated in such hotel or inn.

Penalty.

333. Any person committing a breach of any of the provisions of this Part shall be liable to a fine not exceeding fifty rupees.

Commissioners in meeting may take special measures in outbreak of any epidemic disease.

334. In the event of Calcutta being at any time visited or threatened with an outbreak of any dangerous, epidemic or epizootic disease, the Commissioners in meeting, if they think that the ordinary precautions are insufficient to check the spread of such disease, may, with the sanction of the Local Government, take such special measures as they shall think necessary to prevent, check or mitigate any such outbreak, and the expenses of any such measures shall be paid out of the general fund. Such measures and any regulations passed to give effect thereto shall be published in the Calcutta Gazette, and any person wilfully neglecting or refusing to carry out, or obstructing the execution of, any regulation made under this section shall be liable to a fine not exceeding one hundred rupees.

Penalty.

Part IV.—Of the Control of Public Stables, Cattle-houses, Bathing-places and Wash-houses.

No person to keep animals without license.

335. No person shall keep any animal for profit within Calcutta except in a place licensed by the Commissioners.

Such license shall be taken out yearly before the first day of June in every year.

The word "animal" in this section shall include an elephant, camel, horse, mule, donkey, horned beast, sheep, goat and pig.

The Commissioners in meeting shall determine the places where such animals may be kept and the rules as to paving, drainage, water-supply, cubical space, light and other conditions subject to which the license may be granted, and may impose an annual fee not exceeding Rs. 10 for such license, and no place shall be licensed until the conditions imposed have been complied with.

336. Whoever, being the owner of any land, permits any animals to be kept thereon in contravention of the provisions of the last preceding section, shall be liable to a fine not exceeding one hundred rupees, and to a further fine not exceeding twenty rupees for each day during which the offence is continued after he has been convicted of such offence, and the person keeping the animals shall also be liable to a similar fine. Penalty.

When a conviction has been obtained under this section, it shall be lawful for the Commissioners to turn out the animals and close the place wherein they were kept.

337. Whoever, being the holder of a license under section 335, commits a breach of the conditions of such license shall be liable to a fine not exceeding fifty rupees, and to a further fine not exceeding ten rupees for each day during which the offence is continued after he has been convicted of such offence. Penalty.

338. The Commissioners may at their discretion set apart any public ghát or place (not being private property, or part of the river or river bank of the port of Calcutta) for the purpose of being used as a bathing-place; Commissioners may set apart bathing-places.

provide or set apart a sufficient number of convenient tanks or reservoirs, or runs of water, for the inhabitants to bathe in;

construct wash-houses for washing clothes, and set apart tanks, or reservoirs, or runs of water, for washing animals or clothes, or for any other purpose connected with the health, cleanliness and comfort of the inhabitants.

339. Whoever bathes or washes any animal or clothes in any public place, except the places provided or set apart under the last preceding section, shall be liable to a fine not exceeding fifty rupees. Penalty.

340. The Commissioners in meeting may, by public notice, prohibit the washing of clothes by washermen in the exercise of their calling, except at such places as the Commissioners shall appoint for the purpose; and, when Regulation as to washing by washermen.

any such prohibition has been made, no person who is by calling a washerman shall wash clothes at any place not so appointed other than his own or those of the owner or occupier of such place.

The Commissioners shall provide suitable places for the exercise by washermen of their calling, and may require payment of such fees for the use of any such place as shall from time to time be determined by the Commissioners in meeting.

Part V.—Of Slaughter-houses and Dangerous and Offensive Trades.

No place shall be used as a slaughter-house without a license from the Commissioners in meeting.

341. No place shall be used as a slaughter-house within Calcutta unless a license in writing for the use thereof as a slaughter-house has been obtained from the Commissioners in meeting, who may, at their discretion, from time to time, grant, refuse, suspend or revoke such license.

Whoever uses any place as a slaughter-house without such license shall be liable to a fine of twenty rupees, and upon a conviction being obtained the Commissioners may, if they think fit, close such slaughter-house.

Penalty for using slaughter-houses during suspension or revocation of license.

342. Whoever, during the period for which any license is suspended, or after the same is revoked as aforesaid, slaughters any animal, or allows any animal to be slaughtered in the slaughter-house to which such license relates, shall be liable to a fine not exceeding one hundred rupees, and to a further fine not exceeding fifty rupees for each day during which the offence is continued after he has been convicted of such offence.

Commissioners in meeting to provide places for slaughter-houses.

343. The Commissioners in meeting may, from time to time, if they shall think fit, provide places within or without Calcutta for the purpose of being used as slaughter-houses; and all places heretofore provided by the Commissioners for the purpose of being used as slaughter-houses shall be deemed to have been provided under this section.

Slaughter-houses to be properly drained.

344. Every owner, occupier or farmer of any slaughter-house in Calcutta shall cause such drains to be made therein as shall be considered sufficient by the Commissioners, and (if required so to do by the Commissioners) shall cause all the floors and drains to be paved with stone or other material, and shall also cause a supply of water to be provided sufficient for keeping such slaughter-house in a clean and wholesome state. He shall also cause to be removed at least once in every twenty-four hours all blood, offal or other offensive matter arising from the use of such slaughter-house, in such manner, at such time and with such precautions as the Commissioners may direct.

Penalty.

If such owner, occupier or farmer, after notice in writing given to him by the Commissioners that such slaughter-house is defective in any of the

said particulars, and requiring him to remedy the defect specified within not less than thirty days, makes default therein, he shall be liable to a fine not exceeding fifty rupees for every day during which such default is continued.

Commissioners in meeting may set apart places for sacrifice and the sale of goat meat.

345. The Commissioners in meeting may set apart places for the sacrifice of goats, in accordance with Hindu rites, and the sale of the meat thereof, and the provisions of section 343 and the last preceding section shall apply to such places.

Certain offensive and dangerous trades carried on in Calcutta to be registered.

346. No premises, not already registered under section 297 of Bengal Act IV of 1876,[a] shall be used—

(*a*) for melting tallow;
(*b*) for boiling offal, hoofs, bones or blood;
(*c*) as a soap-house;
(*d*) as an oil-boiling house;
(*e*) as a dyeing-house;
(*f*) as a tannery;
(*g*) as a brick, pottery or lime kiln;
(*h*) as a knacker's yard;
(*i*) as a hide godown or hide screw-house;
(*j*) as a mill for crushing bones or preparing artificial manure;
(*k*) as a manufactory or place of business from which offensive or unwholesome smells arise; or
(*l*) as a depôt for hay, straw, wood, coal or rags;

except under a license from the Commissioners, who may, at their discretion, from time to time grant such license on such conditions as they think fit.

Commissioners in meeting to fix fees to be paid for licenses.

347. The Commissioners in meeting shall fix a scale of fees to be paid in respect of premises licensed under the last preceding section or registered under section 297 of Bengal Act IV of 1876:[a]

Provided that no fee shall exceed five hundred rupees, nor be less than the amount otherwise payable as a trade or profession license under the second schedule.

Penalty.

348. Whoever, without a license, uses any place not registered under section 297 of Bengal Act IV of 1876[a] for any purpose specified in section 346 shall be liable to a fine not exceeding five hundred rupees, and to a further fine not exceeding fifty rupees for each day during which the said offence is continued after he has been convicted of such offence.

Commissioners may in certain

349. If it be shown to the satisfaction of the Commissioners that any place referred to in section 346 is a nuisance or entails probable danger to the

[a] Ben. Act IV of 1876 is repealed by this Act—see Sch. I, *infra*.

cases order the carrying on of dangerous and offensive trades to be discontinued.

neighbourhood, they may give notice to the occupier to discontinue the use of such place within one month after the date of such notice.

Penalty.

Whoever, after the expiration of such time, uses such place for any of the purposes mentioned in section 346, or permits it to be so used, shall be liable to a fine not exceeding two hundred rupees, and to a further fine not exceeding one hundred rupees for each day during which the offence is continued after he has been convicted of such offence.

Part VI.—Of Markets and the Sale of Food and Drugs.

Power to Commissioners in meeting to construct markets.

350. The Commissioners in meeting may from time to time, if they shall think fit, with the sanction of the Local Government, provide places in Calcutta for the purpose of being used as municipal markets, and the Commissioners may charge such rents, tolls and fees as to them may seem fit for the use of, or right to expose goods for sale in, such markets, and for the use of shops, stalls and standings therein.

Recovery of fees.

351. All such rents, tolls and fees which shall be imposed shall be recoverable by the Commissioners from the persons liable to pay the same as if the amounts payable in respect thereof were rates due to the Commissioners from such persons under the provisions of Chapter VI.

Power to expel vendor breaking regulations.

352. The Commissioners may expel from any such municipal market any vendor who, or whose servants, may be convicted of disobeying any bye-law made under section 412, clause (*i*), and may prevent such person, by himself or his servants, from further carrying on any trade or business in such market, or occupying any stall or shop therein, and may determine any lease or tenure which such person may have in any such stall or shop.

Power to Commissioners to sell or let markets.

353. The Commissioners may sell, or let to tenants on lease or otherwise, on such terms as they may think fit, any municipal market, or any part thereof, and may do all things necessary for carrying the provisions of this section into effect.

Power to Commissioners in meeting to close markets or to sell or let land formerly used as markets.

354. The Commissioners in meeting may close any municipal market, or any part thereof, or sell, or let out to tenants on lease or otherwise, any land heretobefore used as a municipal market, or any part thereof, on such terms as they may think fit, and may do all things necessary for carrying the provisions of this section into effect.

Power to

355. It shall be within the discretion of the Commissioners in meeting to

grant licenses for the use of any place, which they are satisfied is suitable for the purpose, as a market for the sale of meat, fish, fruit and vegetables, and every such license shall be in force until the first day of April next following the day therein named for the commencement thereof.

grant licenses for markets.

Duration of licenses.

Nothing contained in this section shall be held to impose upon any person the obligation of taking out a license for a market which has been registered under section 6 of Bengal Act VIII of 1871.[a]

356. No person shall, without a license from the Commissioners, use any place as a shop for the sale of fresh meat or fish except in a municipal, registered or licensed market. And the Commissioners in meeting may fix a scale of fees for licenses to be taken out annually for such shops:

Shops for the sale of meat and fish to be licensed.

Provided that no fee for a license to use any place as a shop for the sale of meat shall be less than twelve rupees. This section shall not apply to any place licensed as an hotel or eating-house.

357. Whoever wilfully or negligently permits any place in Calcutta (not being a market which has been registered under section 6 of Bengal Act VIII of 1871[a]) to be used as a market for the sale of meat, fish, fruit or vegetables, or as a shop for the sale of fresh meat or fish, without a license under this Act, shall be liable to a fine not exceeding two hundred rupees, and to a further fine not exceeding fifty rupees for each day during which the said offence shall be continued after he has been convicted of such offence.

Penalty for permitting unauthorized places to be used as markets.

358. Upon a conviction being obtained under the last preceding section, the Magistrate shall, on the application of the Commissioners, but not otherwise, order such place to be closed, and thereupon appoint persons, or take other steps, to prevent such place being so used; and every person who shall sell or expose for sale meat, fish, fruit or vegetables in any place which shall have been so closed shall be liable to a fine not exceeding ten rupees.

Power to close unlicensed place.

359. The Commissioners in meeting may define, fix and determine the limits of any registered or licensed market or bázár and what portions of any market or bázár shall be thrown into, and made part of, the existing approaches, roads, paths and ways in such market or bázár for the convenient use of persons resorting thereto; and shall signify the same by affixing, or causing to be affixed, in some conspicuous place or places in the market or bázár, a notice signifying the limits and description of the parts of the said market or bázár so to be kept and used as part of the approaches, roads, paths and ways.

Commissioners in meeting may define limits of markets.

360. The Commissioners in meeting may, by notice in writing to the Commis-

[a] Ben. Act VII of 1871 was repealed by Ben. Act IV of 1876.

sioners in meeting may require roads in markets to be made.

owner, proprietor or lessee of any registered or licensed market or bázár, require him, within a time to be specified therein, to execute the necessary works and take all necessary measures for the setting out, clearing, widening and maintaining of the said approaches, roads, paths and ways;

and may, in case of default by their servants and workmen, enter into and upon the said market or bázár, and clear, set out and widen the said approaches, roads, paths and ways, and the expenses thereby incurred shall be paid by the person on whom the notice has been served.

Commissioners in meeting may alter approaches.

361. The Commissioners in meeting may, from time to time, vary and alter the said approaches, roads, paths and ways as occasion may require, signifying the same by a like notice.

Penalty.

362. Whoever shall cause any obstruction or encroachment in or on any approaches, roads, paths or ways to, or in, any registered or licensed market or bázár shall be liable to a fine not exceeding fifty rupees, and to a further fine not exceeding ten rupees for every day such obstruction or encroachment is continued after notice from the Commissioners to remove or discontinue the same.

Sale of unwholesome food or drink.

363. Any Magistrate, on the application of the Commissioners setting forth that there is just cause to believe that any article, which has been rendered or has become noxious or unfit for use as food or drink for man, is in the possession of any person for the purpose of being sold, offered or exposed for sale, may grant a warrant to enter upon the premises of such person and to search for and seize such article;

and, if it appear to the Magistrate that any such article, whether discovered with or without a warrant under this section, is noxious or unfit for such use, he shall order it to be forfeited and disposed of in such way as to him shall seem proper.

Prohibition of the sale of articles of food not of the proper nature, substance or quality.

364. No person shall sell to the prejudice of the purchaser any article of food which is not of the nature, substance or quality of the article demanded by such purchaser under a penalty not exceeding one hundred rupees for the first offence, and not exceeding five hundred rupees for any offence after a conviction for a first offence:

Provided that an offence shall not be deemed to be committed under this tion in the following cases, that is to say:—

(1) where any matter or ingredient not injurious to health has been added to the food, because the same is required for the production or preparation thereof as an article of commerce, in a state fit for carriage or consumption and not fraudulently to increase the bulk,

weight or measure of the food or conceal the inferior quality thereof;

(2) where the food is unavoidably mixed with some extraneous matter in the process of collection or preparation.

The term "food" shall include every article used for food or drink by man other than drugs or water.

In any prosecution under this section it shall be no defence to allege that the vendor was ignorant of the nature, substance or quality of the article sold by him, or that the purchaser, having bought only for analysis, was not prejudiced by the sale.

No proceedings shall be instituted under this section without the order or consent in writing of the Commissioners.

No proceedings to be had without leave of Commissioners.

365. The Commissioners may, at all reasonable times, enter into and inspect any market, building, shop, stall, boat, vessel, wharf, godown or other place used for the sale, preparation or storage of articles intended for food, or as a slaughter-house, and may examine any such articles which may be therein, and, if, upon examination, such articles, or any of them, appear to be unfit for food, may seize the same.

Power of Commissioners to enter and inspect markets and shops and to seize unwholesome articles exposed for sale.

Meat subjected to the process of blowing shall be deemed unfit for food.

366. Upon the seizure of any article of food under the last preceding section, the same may, if the owner or the person in whose possession the same is found consents, be forthwith destroyed or so disposed of as to prevent it being used as food; but, if the owner or the person in whose possession the same is found do not consent, then, if it appear to the Chairman, Vice-Chairman, Health-officer or any Commissioner to whom the same may be brought that the same is unfit for food, he shall order the same to be destroyed or so disposed of as to prevent it being used as food. And the Commissioners may, if they think fit, prosecute the owner or the person in whose possession the same is found, such person not being merely a carrier or bailee thereof, and he shall, upon conviction, be liable to a fine not exceeding ten rupees.

Power to destroy unwholesome articles.

367. If the Commissioners shall apply to purchase any article of food exposed to sale and shall tender the price for a quantity not more than shall be reasonably requisite for the purpose of analysis, and the person exposing the same for sale shall refuse to sell the same, such person shall be liable to a penalty not exceeding fifty rupees.

Person refusing to sell any article to Commissioners liable to penalty.

368. No shop or place shall be kept for the retail sale of drugs not being also articles of ordinary domestic consumption, unless the same shall have

Registry of shops for sale of drugs.

been registered in the office of the Commissioners. Any keeper of such shop or place failing to register the same within two months of the passing of this Act, or within two months from the date of the establishment of such place, shall be liable to a fine not exceeding one hundred rupees. The Commissioners shall, upon registration, grant the keeper of such shop or place a license, which he shall be bound to display in some conspicuous part of his premises.

Certificated dispensers.

No person shall compound, mix, prepare, dispense or sell any drug in any such registered shop or place unless he be duly certified as a fit person to be entrusted with such duties under rules made for that purpose by the Local Government.

Uncertificated persons dispensing drugs.

Any person, not being a holder of such certificate, who shall compound, mix, prepare or sell any drugs in any such registered shop or place shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees for each offence; and any owner, occupier or keeper of any such shop or place who shall employ any such uncertified person to perform any one or more of such duties shall, on conviction before a Magistrate, be liable to a fine not exceeding two hundred rupees, and shall be further liable, at the discretion of such Magistrate, to forfeit his license.

Nothing in this section contained shall be construed to apply to the sale of drugs used by practitioners of indigenous medicines when such drugs are not sold in a shop or place where medicines are dispensed upon prescription.

Inspection of drugs.

369. The Commissioners may, at all reasonable times, enter into and inspect any place kept for the sale of drugs, or in which drugs are sold, and, if they have reason to suspect that any drug in the said place is adulterated, or by reason of age, or the effect of climate, has become inert or unwholesome, or has otherwise become deteriorated in such a manner as to lessen its efficacy, to change its operation or to render it noxious, may remove the same on giving a receipt specifying the nature and quantity of the drug removed and its approximate value; and, if it appear to any Magistrate that the said drug removed as aforesaid is adulterated, or has become inert, unwholesome or deteriorated as aforesaid, he may order the same to be destroyed, or to be so disposed of as to him may seem fit. If it shall appear to the Magistrate that the drug so removed is not adulterated or has not become inert, unwholesome or deteriorated as aforesaid, the person from whose shop or place it has been taken shall be entitled to have it restored to him, and it shall be in the discretion of the Magistrate to award him such compensation, not exceeding the actual loss which has been sustained, as the Magistrate may think proper.

Compensation if drug be not adulterated.

If the drug removed as aforesaid is not brought before a Magistrate, it

shall be restored to the person from whose shop or place it was taken, and such person shall be entitled to compensation for any actual loss which he may have sustained by the removal of the said drug, and any dispute which may arise touching the amount of compensation to be given shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

Part VII.—Of Weights and Measures.

Provision of standards of local weights and measures.

370.[a] The Commissioners shall, from time to time, provide such local standards of measure and weight as they deem requisite for the purpose of verification of weights and measures in use in Calcutta, and shall make such arrangements as they shall think fit for the safe keeping of the said standards.

The Commissioners shall also provide from time to time proper means for verifying weights and measures by comparison with the said standards, and for stamping the weights and measures so verified.

Verification and stamping of weights and measures by municipal officer.

371. The Commissioners shall, from time to time, fix the times and places at which some municipal officer appointed by them in this behalf shall attend for the purpose of the verification of weights and measures.

The municipal officer so appointed shall attend with the local standards in his custody at each time and place fixed, and shall examine every measure or weight which is of the same denomination as one of such standards and is brought to him for the purpose of verification, and compare the same with that standard, and, if he find the same correct, shall stamp it with a stamp of verification in such manner as best to prevent fraud.

The said municipal officer shall enter in a book kept by him minutes of every such verification, and give, if required, a certificate under his hand of every such stamping.

Fees for comparison and stamping.

372. There shall be payable to the Commissioners in respect of the verification and stamping of weights and measures by a municipal officer as aforesaid such fees as the Commissioners in meeting may, from time to time, fix in this behalf.

Part VIII.—Of Burial and Burning Grounds.

Burial and burning grounds to be registered.

373. The Commissioners may, if they think fit, cause a survey and measurement to be made of every public burial and burning ground, and every place used as such; and every burial and burning ground and every place used as such shall be registered by the owner or the person having the control thereof, who, if it is not a public burial or burning ground, shall, if required by the

[a] As to duty of Commissioners under s. 370 to keep certified measures of the standard yard, standard foot and standard inch under the Measures of Length Act, 1889, see Act II of 1889, s. 7.

Commissioners so to do, deposit a plan thereof in the Municipal office within three months. If there be no owner or person authorized to control the same, the registration may be made by order of the Commissioners in a book to be kept by them for that purpose.

Penalty.

374. Whoever uses any such place as is mentioned in the last preceding section without the same being registered or without a plan having been deposited, when required by the Commissioners, within the period prescribed in the last preceding section, shall be liable to a fine not exceeding one hundred rupees and to a further fine not exceeding fifty rupees for each day during which the offence is continued after he has been convicted of such offence.

Registers of burials and cremations to be kept.

375. Every person having the control of a burial or burning ground shall keep a register of all burials or cremations therein, in which shall be entered the particulars required to be entered in the certificate referred to in section 190, and the Commissioners shall at all times have access to such register.

Penalty.

376. Whoever buries or burns, or causes, procures or suffers to be buried or burnt any corpse in or on any ground not registered as a burial or burning ground, or without registering the burial or cremation under the last preceding section, shall be liable to a fine not exceeding one hundred rupees.

Unauthorized places not to be used for burial or burning.

377. No burial or burning ground, whether public or private, shall be made or used, or, having fallen into disuse, shall be again used as such, otherwise than by, or under the authority of, the Local Government without a license, describing the extent and boundaries thereof, previously obtained from the Commissioners in meeting, who may at their discretion, from time to time, grant such license.

Commissioners in meeting may provide burial and burning grounds, and fix fees.

378. The Commissioners in meeting may, from time to time, out of the general fund, provide fitting places to be used as burial or burning grounds, and may fix a scale of fees in respect of burials and cremations within such burial or burning grounds.

No vault or burial or burning place henceforth to be constructed without leave of the Commissioners.

379. No vault or grave shall be made within the walls of, or underneath, any church, chapel or other place of public worship without the permission of the Commissioners except by order of the Local Government.

Penalty.

380. Whoever buries or burns, or causes, permits or suffers to be buried or burnt any corpse in any vault, grave or burial or burning ground opened, made or formed without such license, or contrary to the terms thereof, shall be liable to a fine not exceeding five hundred rupees.

381. If the Commissioners in meeting, with the sanction of the Local Government, shall certify, in manner hereinafter provided, that any burial-ground or place of burial, or that any place used for the burning of corpses, is in such a state as to be dangerous to the health of persons living in the neighbourhood thereof;

Commissioners in meeting to issue certificates prohibiting the use of improper burial and burning places.

or that any church or other place of public worship is dangerous to the health of persons frequenting the same, by reason of the state of the vaults or graves within the walls of, or underneath the same, or in any churchyard or burial-ground adjacent thereto;

and shall also certify that a fitting place for interment or burning (as the case may be) exists within a convenient distance and is available, no person shall, after a time (not less than two months) to be named in such certificate, bury or burn, or permit or suffer to be buried or burnt any corpse in, upon, within or under the ground, church or place of worship to which the certificate relates, except in so far as may be allowed by such certificate.

Every such certificate shall be published in the Calcutta Gazette, and a translation thereof in Bengali shall, in the case of a burial or burning ground, be affixed conspicuously on some part of the said ground.

382. Whoever, after due publication of such certificate, buries or burns, or causes, permits or suffers to be buried or burnt any corpse contrary to the last preceding section, shall be liable to a fine not exceeding two hundred rupees.

Penalty.

383. Notwithstanding any certificate under section 381, where, by usage or otherwise, there is any right of interment in or under any church or chapel, or in any vault or such church or chapel, or of any churchyard, burial-ground or place of burial affected by such certificate, or where any exclusive right of interment, or any exclusive right to ground for the purpose of interment, has been purchased or acquired, the Commissioners may, if, on application made to them, they are satisfied that the exercise of such right or the use of such ground will not be injurious to health, grant a license for such exercise or use during such time and subject to such conditions and restrictions as they may think fit.

Commissioners may, in certain cases, permit interment in churches.

384. The Commissioners shall, from time to time, grant licenses to persons applying for such, for the sale at burning-grounds, of fuel and other articles used for the cremation of dead bodies, and shall in meeting prescribe a scale of rates for the sale of such articles; and any person not so licensed who shall, within three hundred yards of any such burning-ground, sell or offer for sale any such fuel or other articles, shall be liable to a fine not exceeding fifty rupees.

Power to license fuel shops at burning-grounds.

The Commissioners may, on good and sufficient cause, revoke or withdraw

any such license they may think fit, and any person to whom any such license is granted, who shall charge for the sale of any such article any higher rate than the rate fixed for such article in such scale, shall, at the discretion of the Commissioners, be liable to have his license cancelled, and shall be liable also to a fine not exceeding ten rupees.

The Commissioners shall not be bound to grant a fresh license to any person whose license may have been revoked, withdrawn or cancelled under the provisions of this section.

Part IX.—Of Nuisances.

Nuisances which may be dealt with summarily.

385. The following nuisances shall be deemed to be nuisances liable to be dealt with summarily in manner provided by this Chapter:—

(*a*) any premises in such a state as to be a nuisance or injurious to health:

(*b*) any tank, well, ditch, gutter, water-course, privy, urinal, cess-pool or drain so foul or in such a state as to be a nuisance or injurious to health:

(*c*) any animal so kept as to be a nuisance or injurious to health:

(*d*) any accumulation or deposit which is a nuisance or injurious to health:

(*e*) any house or part of a house so overcrowded as to be dangerous or injurious to the health of the inmates:

(*f*) any factory, workshop or workplace not kept in a cleanly state, or not ventilated in such a manner as to render harmless, as far as practicable, any gases, vapours, dust or other impurities generated in the course of the work carried on therein that are a nuisance or injurious to health, or so overcrowded while work is carried on as to be dangerous or injurious to the health of those employed therein:

(*g*) any fireplace or furnace which does not, as far as practicable, consume the smoke arising from the combustible used therein, and which is used for working engines by steam, or in any mill, factory, dye-house, brewery, bake-house or gas-work, or in any manufacturing or trade process whatsoever, and any chimney (not being the chimney of a private dwelling-house) sending forth black smoke in such quantity as to be a nuisance:

Provided—

1st, that a penalty shall not be imposed on any person in respect of any accumulation or deposit necessary for the effectual carrying on of any

business or manufacture, if it be proved to the satisfaction of the Magistrate that the accumulation or deposit has not been kept longer than is necessary for the purposes of the business or manufacture, and that the best available means have been taken for preventing injury thereby to the public health;

2nd, that where a person is summoned before any Magistrate in respect of a nuisance arising from a fireplace or furnace which does not consume the smoke arising from the combustible used in such fireplace or furnace, the Magistrate shall hold that no nuisance is created within the meaning of this Act and dismiss the complaint, if he is satisfied that such fireplace or furnace was constructed before the passing of this Act, and in such manner as to consume as far as practicable, having regard to the nature of the manufacture or trade, all smoke arising therefrom, and that such fireplace or furnace has been carefully attended to by the person having the charge thereof.

Information of nuisances.

386. Information of any nuisance, referred to in the last preceding section, existing in Calcutta, may be given to the Commissioners by any person aggrieved thereby or by any officer of the Commissioners.

Commissioners to serve a notice in case of nuisance.

387. On the receipt of any information respecting the existence of a nuisance, the Commissioners shall, if satisfied of the existence of a nuisance, serve a notice on the person by whose act, default or sufferance the nuisance arises or continues, or, if such person cannot be found, on the owner or occupier of the premises on which the nuisance arises, requiring him to abate the same within a time to be specified in the notice, and to execute such works and do such things as may be necessary for that purpose:

Provided—

1st, that where the nuisance arises from the want or defective construction of any structural convenience, or where there is no occupier of the premises, notice under this section shall be served on the owner;

2nd, that where the person causing the nuisance cannot be found, and it is clear that the nuisance does not arise or continue by the act, default or sufferance of the owner or occupier of the premises, the Commissioners may themselves abate the same without further order.

Where notice insufficient, Commissioners may

388. If the person on whom a notice to abate a nuisance has been served makes default in complying with any of the requisitions thereof within the time specified, or if the nuisance, although abated since the service of the

prefer a complaint.

notice, is, in the opinion of the Commissioners, likely to recur on the same premises, the Commissioners may cause a complaint relating to such nuisance to be made before a Magistrate, and such Magistrate shall thereupon issue a summons requiring the person on whom the notice was served to appear before him.

Magistrate's order.

389. If the Magistrate is satisfied that the alleged nuisance exists, or that, although abated, it is likely to recur on the same premises, the Magistrate shall make an order on such person requiring him to comply with all or any of the requisitions of the notice or otherwise to abate the nuisance within a time specified in the order, and to do any works necessary for that purpose, or an order prohibiting the recurrence of the nuisance and directing the execution of any works necessary to prevent the recurrence, or an order both requiring abatement and prohibiting the recurrence of the nuisance.

The Magistrate may, by his order, impose a penalty not exceeding fifty rupees on the person on whom the order is made.

Order when a building is unfit for habitation.

390. Where the nuisance proved to exist is such as to render a house or building, in the judgment of the Magistrate, unfit for human habitation, the Magistrate may prohibit the using thereof for that purpose, until, in his judgment, the house or building is rendered fit for that purpose; and, on the Magistrate being satisfied that it has been rendered fit for that purpose, the Magistrate may determine his previous order by another declaring the house or building habitable, and from the date thereof such house or building may be let or inhabited.

Penalties for disobedience of orders.

391. Any person not obeying an order to comply with the requisition of the Commissioners or otherwise to abate the nuisance shall, if he fails to satisfy the Magistrate that he has used all due diligence to carry out such order, be liable to a penalty not exceeding five rupees per diem during his default; and any person knowingly and wilfully acting contrary to an order of prohibition shall be liable to a penalty not exceeding rupees ten per diem during such contrary action; moreover, the Commissioners may enter the premises to which any order relates, and abate the nuisance, and do whatever may be necessary in execution of such order, and recover the expenses incurred by them from the person on whom the order is made.

This Part, as regards nuisances, not to affect rights under other law.

392. The provisions of this Part relating to nuisances shall be deemed to be in addition to and not to abridge or affect any right, remedy or proceeding under any other law for the time being in force:

Provided that no person shall be punished for the same offence both under the provisions of this part and under any other law.

CHAPTER XIII.

Of the General Powers of the Commissioners.

Part I.—Of the Rights of Entry.

Power to enter upon house and land for the purposes of this Act.

393. The Commissioners shall, for the purposes of this Act, have power, between sunrise and sunset, to enter upon any house or land for the purpose of making any inspection, survey, measurement, valuation or enquiry necessary for the discharge of any duty imposed upon them by this Act, or for the purpose of executing any work authorized by this Act, or by any bye-law as aforesaid, to be executed by them, without being liable to any legal proceedings or molestation whatsoever on account of such entry, or of anything done on such house or land in pursuance of this Act:

Provided that, except as herein otherwise provided, the Commissioners shall not enter upon any house or land which may be occupied at the time, unless with the consent of the occupier thereof, without previously giving the said occupier twenty-four hours' notice in writing of their intention so to do.

Power to Commissioners to enter on lands adjacent to work.

394. The Commissioners may enter upon the land of any person adjoining to, or being within the distance of one hundred yards of, any works by this Act authorized to be executed for the purpose of depositing upon such land any soil, gravel, sand, lime, brick, stone or other materials, or for obtaining access to any such works, or for any other purposes connected with the formation of the said works, without making any previous payment, tender or deposit, doing as little damage as may be in the exercise of the several powers hereby granted to them, and making compensation for such temporary occupation of, or temporary damage to, the said land to the owner and occupier thereof from time to time, and as often as any such temporary occupation shall be taken, or such temporary damage done, and making compensation to the owner also for the permanent injury (if any) to such land;

and, if any dispute shall arise touching the amount or apportionment of such compensation, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses:

Provided that, before the Commissioners make any such temporary use as aforesaid of any land adjoining or lying near to the said works, they shall give three days' notice in writing of their intention to the owner and occupier of such land, and shall, if required so to do by the owner or occupier, set apart, by sufficient fences, so much of the land as shall be required to be used as aforesaid.

Powers to be

395. For the purpose of laying pipes or constructing aqueducts for bring-

exercised by Commissioners when constructing drains and aqueducts without the town.

ing water into Calcutta from any place beyond the limits thereof, or for the purpose of making sewers or drains to communicate with, or empty themselves into, any public sewer, lake, stream, canal or water-course without the said limits, the Commissioners may, whenever a plan for laying down any such pipes or constructing any such aqueduct, sewer or drain shall have been approved by the Local Government, exercise, in the laying of such pipes and construction of such aqueduct, sewer or drain throughout the line of country through which the said pipes, aqueduct, sewer or drain are to run, all the powers which by this Act they may exercise within the limits of Calcutta, and which may be necessary for the laying of such pipes, or the construction of such acqueduct, sewer or drain, without being subject to any action or molestation whatever for so doing;

and the Magistrate of any district through which the said pipes, acqueduct, sewer or drain are to run may exercise in respect thereof the like powers and jurisdiction, within the limits of his own district, as a Magistrate may under this Act exercise in respect of any work to be executed by the Commissioners in Calcutta.

Penalty for obstructing persons employed by Commissioners in their duty.

396. Whoever at any time obstructs or molests any person employed by the Commissioners (not being a public servant within the meaning of section 21 of the Indian Penal Code[a]), or any person with whom they may have contracted under the provisions of this Act, in the performance and execution of their or his duty, or of anything which they are respectively empowered or required to do by virtue or in consequence of this Act, or removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorized by this Act, shall be liable to a fine not exceeding two hundred rupees or, in the discretion of the Magistrate by whom he is convicted, to imprisonment, either rigorous or simple, for any term not exceeding two months. XLV of 1860

Part II.—Of the Acquisition and Disposal of Land.

Commissioners in meeting may acquire and dispose of any land for the purposes of this Act.

397. The Commissioners in meeting may acquire any land, whether within or without Calcutta, for any of the purposes of this Act, and may dispose of land vested in them, and the Commissioners may receive the rent of any land leased by them on such terms as they may think fit.

Commissioners in

398. The Commissioners in meeting may, from time to time, pay rent for,

[a] See General Acts, 1834—66, 2nd Ed., p. 243.

or take on lease, on such terms as they may think fit, any land required for the purposes of this Act.

meeting may rent and take on lease land.

399. Any land required for the purposes of this Act may be acquired under the provisions of the Land Acquisition Act, 1870[a], or any similar Act for the time being in force for the acquisition of land for public purposes; and, on payment by the Commissioners, out of the general fund, of the compensation payable under that Act and of the charges reasonably incurred by the Collector in respect of the proceedings thereunder, such land shall vest in them for the purposes of this Act.

[1870.

Land may be acquired under Land Acquisition Act.

Part III.—Of Railways.

400. The Commissioners in meeting may, upon any of the public streets within Calcutta, or upon any land within or without Calcutta which is vested in the Commissioners, construct or maintain any railway or tramway which may appear to them to be useful or necessary for the purposes of this Act,

Power to construct and maintain railway or tramway.

and use and employ upon any such railway or tramway by them heretofore constructed or hereafter to be constructed such locomotive engines or other moving power, and such carriages and wagons to be drawn or propelled thereby,

carry and convey upon such railway all such passengers and goods as shall be offered to them for that purpose,

and make such reasonable charges in respect thereof as they may, from time to time, determine upon.

401. The Commissioners in meeting, from time to time, may enter into any contract with any person for the passage over any railway already constructed by the Commissioners or hereafter to be constructed by them, of the engines, wagons or other carriages of such person, upon the payment of such tolls or rent, and under such conditions and restrictions, as may be mutually agreed upon.

Power to permit carriages to run on railway.

402. The Commissioners in meeting may lease any railway constructed or to be constructed by them under the provisions hereinbefore contained to any person upon such terms and under such conditions and restrictions as may be mutually agreed upon; and every person to whom any such railway shall be so leased by the Commissioners shall, subject to such conditions and restrictions as aforesaid, have all such and the same powers of maintaining the same, and for using and employing thereupon locomotive engines and other moving power, and carriages and wagons to be drawn or propelled thereby, and for carrying and conveying thereupon passengers and goods, and making charges

Power to lease railway.

[a] See General Acts, 1867—76, 2nd Ed., p. 177.

in respect thereof, as the Commissioners would have had if such railway had not been leased.

The Commissioners in meeting may, from time to time, enter into any contract with any person for the purpose of the construction of any railway within or without Calcutta and for the purpose of maintaining and working of the same.

Powers conferred by this Part subject to sanction of Governor General in Council.

403. All the powers conferred under this Part shall be exercised with the previous sanction of the Governor General in Council.

CHAPTER XIV.

Of the Municipal Debt.

Power to Commissioners at a special meeting to borrow on the security of rates and taxes.

404. For the construction of works of a permanent nature under this Act, the Commissioners at a special meeting may, with the sanction of the Governor General in Council, from time to time borrow by way of debenture, on the security of the rates, taxes and dues imposed and levied on account of the municipal fund, or of a portion of them, and at such rate of interest and upon such terms as to the time of repayment and otherwise as the Governor General in Council may approve, any sums of money the Commissioners may require for the objects aforesaid.

Form of security.

405. All the debentures aforesaid issued under the authority of this Act shall be in the form prescribed in the twelfth schedule, or in such other form as the Commissioners in meeting, with the previous sanction of the Governor General in Council, may determine, and shall be transferable by endorsement, and the right to sue in respect of the moneys secured by any of such debentures shall be vested in the holders thereof for the time being without any preference by reason of some of such debentures being prior in date to others.

Payment of moneys due on old debentures by issue of fresh debentures.

406. The Commissioners in meeting may at any time, with the sanction of the Governor General in Council, raise, by the issue of new debentures, any money that may be required to pay any moneys for the time being due on any debentures issued under the authority of this Act, or of any enactment hereby expressly repealed.

Establishment of reserve funds.

407. The Commissioners shall set aside quarterly out of their income, before making any disbursements in respect thereof,—

such sum as may be required for the payment of the interest and instalments payable to the reserve funds which may fall due within the quarter on any debentures issued under the authority of this Act, or of any enactment hereby expressly repealed.

The instalments payable to the reserve funds shall be at the rate of one per cent. per annum on the aggregate unpaid sum borrowed by the Commissioners after the first day of April, 1881, and at the rate of two per cent. per annum on the unpaid balance of all debenture loans contracted before that date.

Surplus to be invested.

408. The Commissioners shall apply the reserve set aside under the last preceding section so far as it is required or so far as it extends to repay such debenture loans issued by them as shall fall due in the course of the year, and shall invest the surplus (if any) of the said sum, after repayment as foresaid, or in case there has not been any amount due or paid in respect of such loans or debentures during the year, then they shall invest the whole of the said sum, in Government securities, or in any securities guaranteed by Government, or in Calcutta municipal debentures, in the names of the Secretary to the Government of Bengal in the Financial Department and the Accountant-General of Bengal respectively for the time being, to be by them held as trustees for the purpose of repaying at due date from time to time the several loans contracted or debentures issued by the Commissioners. And all moneys and securities now held by any Trustees for the Commissioners, for the purpose of paying off any sums borrowed by them, not being sums borrowed from the Secretary of State for India in Council, shall be held by them upon the trusts hereinbefore declared.

All interest accruing due to the trustees shall also from time to time be invested by them in like manner and held upon the like trust:

Provided always that the accounts of the fund formed by the payments made at the rate of two per cent. per annum and the fund formed by the payments made at the rate of one per cent. per annum shall be kept separate and distinct, and each reserve fund shall only be applied to paying off the debentures on account of which the instalments are payable.

Appropriation of reserve fund.

409. The trustees shall from time to time, whenever any loans or debentures shall fall due by the Commissioners, realize the whole or a sufficient portion of the securities held by them as aforesaid on account of the reserve fund applicable to liquidate such loans or debentures, and apply the sale-proceeds thereof, so far as the same will extend, to satisfy such loans or debentures.

Account of reserve fund.

The trustees shall, at the end of every year, submit a statement to the Commissioners showing the amount which has been invested during the year under section 408, and setting forth the date of the last investment made previous thereto, and also the aggregate amount of the securities then in their hands, and the aggregate amount which has up to the date thereof been paid off in respect of the said debentures and loans.

Such statement shall be laid before the Commissioners in meeting and published in the Calcutta Gazette.

Limit imposed on debenture loans.

410. The total sum borrowed by the Commissioners by way of debenture loans under this or any preceding Act shall not exceed such an amount that the sum payable thereon annually by way of interest and as instalments due to the reserve funds shall be more than ten per cent. on the annual valuation of Calcutta.

Commissioners in meeting may consolidate their loans.

411. Nothing in this Chapter shall be construed to prevent the Commissioners in meeting from inviting tenders at any time for a new loan, to be called the "municipal consolidated loan," on such terms as may be approved by the Governor General in Council, and also inviting holders of municipal debentures to exchange their debentures for such municipal consolidated loan stock at such rates as the Commissioners may consider fair and the Governor General in Council may approve. The scrip of such stock shall be in such form as the Commissioners in meeting, with the previous sanction of the Governor General in Council, may prescribe. The Commissioners shall repay such consolidated loan by annual payments at a rate of not less than one-sixtieth of the unpaid balance in each year in lieu of contributing to a reserve fund under section 407, and the stock to be paid off shall be purchased in the open market; and the provisions of section 407 shall apply to the sums necessary to make such annual payment:

Provided that, if during any year no stock is obtainable in the open market at, or below, its par value, it shall not be obligatory on the Commissioners to make repayment until such stock is obtainable in the open market at, or below, its par value.

CHAPTER XV.

Of Bye-laws.

Power to make bye-laws;

412. The Commissioners in meeting may, from time to time, make bye-laws, not inconsistent with the provisions of this Act, with regard to—

(*a*) all matters and things connected with the supply and use of water;

(*b*) the time and place of bathing for persons of each sex in places provided or set apart for bathing purposes;

(*c*) the deposit, whether in the public streets or otherwise, of rubbish and offensive matter, the removing and carrying away of the same, and charging the person responsible for such deposit with the expenses of removing it;

(*d*) the conditions under which persons shall be permitted to drive registered carts;

(*e*) the height and mode of construction of buildings;

(*f*) ventilation and the extent to which space must be left for the free circulation of air as required by the provisions of section 243;

(*g*) drainage, cess-pools, privies, cow-houses and stables;

(*h*) the management, inspection and scale of fees to be charged for the use of places provided under the provisions of sections 341 and 345;

(*i*) the inspection and management, and conduct of, business in markets and the keeping the same in a proper, orderly and cleanly state;

(*j*) the inspection of places used for any of the purposes mentioned in section 346, and the management and conduct of business in the same;

(*k*) theatres and other places of public resort, recreation and amusement:

(*l*) lodging-houses, public laundries, dairies and licensed cow-houses and stables;

(*m*) securing the cleanliness of milk-stores, milk-shops and milk-vessels used for keeping or conveying milk;

(*n*) the inspection and management of burial and burning grounds;

and generally for carrying out the purposes of this Act.

and to repeal or alter them.

413. The Commissioners in meeting may, from time to time, repeal, alter or add to any bye-laws made under the last preceding section.

Bye-laws and alterations of them to be confirmed by Local Government.

414. No bye-law, and no repeal or alteration of, or addition to, any bye-law, shall have effect until the same has been confirmed by the Local Government.

Bye-laws and alterations of them to be published before confirmation.

415. No bye-law, and no repeal or alteration of, or addition to, any bye-law, shall be confirmed until the same has been published in the English and Bengali Government Gazettes at least three times, nor till one month has elapsed from the date of the first publication, during which period a copy of such proposed bye-law, or the repeal or alteration of, or addition to, any bye-law, shall be kept at the office of the Commissioners; and all persons may at any time between ten o'clock in the forenoon and five o'clock in the afternoon inspect such copy without fee.

After confirmation, bye-laws to be published in Gazette.

416. Every bye-law, and every repeal or alteration of, or addition to, any bye-law, when confirmed, shall be published in the English and Bengali Government Gazettes.

Penalty.

417. Whoever infringes any bye-law made and confirmed, or any rule made and sanctioned, under this Act, shall be liable to a fine not exceeding rupees twenty, and to a further fine not exceeding ten rupees for each

day during which the offence is continued after he has been convicted of such offence.

CHAPTER XVI.

OF PROSECUTIONS.

Prosecutions.

418. Every prosecution under this Act may be instituted by the Commissioners before any Magistrate having jurisdiction, who may summon the persons charged to appear at a time and place to be mentioned in the summons; and, if such person do not appear, the Magistrate may, upon proof of service of the summons if no sufficient cause shall be shown for the non-appearance of the person charged, proceed to hear and determine the case in his absence. If such person do appear, then the procedure laid down in the Code of Criminal Procedure of 1882,* from section 242 to section 248, shall be followed. X of 1882.

All fines imposed by a Magistrate under this Act shall be levied under the provisions of sections 386, 387, 388 and 389 of the said Code.

Complaint to be made within three months of the offence.

419. No person shall be liable to any fine under this Act for any offence cognizable by a Magistrate unless the complaint respecting such offence shall have been made within three months next after the commission of such offence:

Provided that the failure to take out any license under this Act shall be deemed to be a continuing offence until the expiration of the period for which such license is required to be taken out.

Person doing damage to the property of the Commissioners to make good the same.

420. If, through any act, neglect or default on account whereof any person shall have been fined under this Act, any damage to the property of the Commissioners shall have been committed by such person, he shall be liable to make good such damage, as well as to pay such fine;

and the amount of such damage shall be determined by the Magistrate by whom such person has been fined;

and, on default of payment of the amount of such damage on demand, the same may be levied in the same manner as a fine.

Magistrate may award compensation for groundless prosecution.

421. In any case in which a Magistrate is satisfied that the Commissioners had no reasonable ground for instituting a prosecution, it shall be lawful for such Magistrate to direct the Commissioners to pay to the accused such compensation, not exceeding fifty rupees, as he thinks fit, and the sum so awarded shall be recoverable as if it were a fine.

Magistrates appointed to try municipal

422. The Local Government may, at the request of the Commissioners in meeting, appoint one or more Magistrates for the trial of offences against the

* See General Acts, 1882 (Pt. I), pp. 314, 315.

provisions of this Act, and may, by rule, prescribe the times and places at which such Magistrate or Magistrates shall sit for the despatch of business. Such Magistrate or Magistrates shall be paid such salary out of the general fund as the Local Government may, from time to time, prescribe.

cases to be paid out of general fund.

CHAPTER XVII.

Of the Recovery of Damages and Expenses.

423. Where any damages, costs or expenses are by this Act directed to be paid, the amount, and, if necessary, the apportionment of the same in case of dispute, shall be ascertained and determined by a Court of Small Causes.

Damages and expenses how to be determined.

424. In any case which is to be determined by a Court of Small Causes under this Act, the said Court may, on the application of either party summon the other party to appear at a time and place to be named in such summons.

Method of proceeding before a Judge of Court of Small Causes.

Upon the appearance of the parties, or, in the absence of any of them, upon proof of due service of the summons, the said Court may hear and determine such question, and for that purpose may examine such parties, or any of them, and their witnesses on oath; and the costs of every such enquiry shall be in the discretion of the said Court, which shall determine the amount thereof.

425. If the amount of damages, costs or expenses ascertained in the manner above described be not paid by the party liable to pay the same within seven days after demand, such amount may be recovered, under a warrant of the said Court, by distress and sale of the moveable property of such party; and the surplus arising from the sale thereof, after satisfying such amount and the costs of the distress and sale, shall be returned on demand to the party whose property shall have been distrained.

Recovery of damages by distress.

426. Instead of proceeding by distress and sale, and in case of failure to realize by distress the whole or any part of any expenses, charges or damages awarded under the provisions of this Act, the Commissioners may sue the person liable to pay the same in any Court of competent jurisdiction.

Commissioners may sue in any competent Court instead of realizing by, or on failure of, distress.

CHAPTER XVIII.

Miscellaneous.

427. No suit shall be brought against the Commissioners, or any of their officers, or any person acting under their direction, for anything done, or

Limitation of three months to suit against

Commissioners or their officers.

purporting to be done, under this Act until the expiration of one month next after notice in writing has been delivered or left at the office of the Commissioners, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff.

Unless such notice be proved, the Court shall find for the defendant.

Every such suit shall be commenced within three months next after accrual of the right to sue, and not afterwards.

If any person to whom any such notice of suit is given shall, before the suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover in any such action when brought; and, if no such tender shall have been made, it shall be lawful for the defendant in such action to pay into Court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

Payment for damage done by Commissioners.

428. The Commissioners may make compensation to all persons sustaining any damage by reason of the exercise of any of the powers vested in the Commissioners, their officers or servants under this Act.

Fees for licenses under sections 311 and 341, and for permission given under section 223.

429. When any license is granted under section 311 or 341 authorizing the use of any place for any of the purposes therein described, and when permission is given under section 223 for putting up any projection, the Commissioners may charge a fee not exceeding five hundred rupees for such license or permission.

Daily fee for permission given under section 212.

When permission is given under section 212 to make any temporary erection, the Commissioners may charge a daily fee not exceeding one hundred rupees for such permission.

Rent may be charged for permission given under sections 229 and 245.

430. When permission is given under sections 229 or 245 the Commissioners may charge rent for any land made use of in pursuance of such permission.

Every person to produce license if required.

431. Every person to whom a license has been granted under this Act shall, at all reasonable times while such license shall remain in force, if required to do so by the Commissioners, or by any person authorized by them in that behalf, produce such license.

Penalty.

432. Whoever fails to produce his license when required so to do as aforesaid shall be liable to a fine not exceeding fifty rupees, and to a further fine not exceeding ten rupees for each day during which the offence is continued after he has been convicted of such offence.

Preparation of forms.

433. The Commissioners may, from time to time, prepare or sanction forms of the various notices required by this Act, and may, from time to time,

make such alterations therein as they deem requisite, and they shall cause every such form to be sealed with the seal of the Corporation, and any notice made on a form sanctioned by the Commissioners shall in all proceedings be held sufficient in law.

How notice may be served.

434. Every notice, bill, form, summons or notice of demand under this Act may be served personally on, or presented to, the person to whom the same is addressed, or be left at his usual place of abode with some adult male member or servant of his family, or at his place of business with some clerk of the office, or, if it cannot be so served or presented, may be put on some conspicuous part of his place of abode, or of his place of business, or of the house or land in respect of which the notice, bill, form, summons or notice of demand is intended to be served.

Service of notice on owners and occupiers of house and land.

435. Where any notice is required to be given to the owner or occupier of any house or land, such notice, addressed to the owner or occupier, as the case may require, may be served on the occupier of such house or land, or otherwise in the manner in the last preceding section mentioned:

Provided that, when the owner and his place of abode are registered under section 128, they[a] shall, if such place of abode be in Calcutta, cause every notice required to be given to the owner of any house or land to be served on such owner or left with some adult male member or servant of his family;

and, if the place of abode of the owner be not in Calcutta, they shall send every such notice by post in a registered cover addressed to his place of abode, and the same shall be deemed to be good service of the notice.

When the name of the owner or occupier is not registered, it shall be sufficient to designate him as "the owner" or "the occupier" of the house or land in respect of which the notice is served.

When there are several owners or occupiers of any premises, the Commissioners may, at any time, call upon such owners or occupiers to appoint, within thirty days, one of their number to receive notices on behalf of the rest; otherwise the Commissioners shall serve a separate notice on each owner or occupier who has registered, or who has applied to register, his name under section 128.

Notice to state a time within which it is to be complied with.

436. Whenever it is provided by this Act that the Commissioners may require the owner or occupier of any house or land to execute any work or take order with any property under his control, such requisition shall, unless otherwise provided by this Act, be made by a notice to be served in the manner provided by the last preceding section. Such notice shall specify a period within which the requisition is to be complied with, and, if no period is

[a] *i.e.*, the Commissioners.

provided by this Act, the period specified shall be a reasonable period having regard to the circumstances under which it is issued.

Every such notice shall state that, if the person to whom it is addressed fails to comply therewith or to satisfy the Commissioners within the specified period that it should be withdrawn or modified, the Commissioners will enter upon the premises and execute the work or take the necessary order with the property, and that the expense thereby incurred will be recovered from the person to whom it is addressed.

If any objection is preferred, further time to be granted.

437. Any person upon whom such notice as is referred to in the last preceding section is served may prefer an objection in writing addressed to the Commissioners stating the grounds upon which such notice should be withdrawn or modified, and, if preferred in time to admit of orders being passed upon the objection before the period specified in the notice expires, the execution of the work may be postponed until the Commissioners have passed orders upon the objection. If the objection is disallowed, a second notice shall be served upon the person who preferred the objection, specifying a reasonable period within which the requisition is to be complied with.

Estimate of cost of work to be given on application.

438. Instead of preferring an objection, or at the time of preferring an objection, any person upon whom such notice as is referred to in section 436 is served may apply to the Commissioners for an estimate of the cost of the work if executed by the Commissioners, and upon such application the Commissioners shall supply such estimate.

Failure to supply an estimate limits cost of work to five rupees.

439. If the Commissioners fail to supply an estimate as required by the provisions of the last preceding section, not more than five rupees shall be charged by the Commissioners for any work executed by them on default by the person served with a notice to execute such work.

If the estimate exceeds three hundred rupees, the work shall not be undertaken by the Commissioners on default until the expiry of ten days from thy date on which the estimate was supplied, and within seven days from such date the person to whom such estimate was supplied may apply in writing to have his objections to execute the work, or to the estimated cost of such work, determined by a committee of the Commissioners, or by the Commissioners in meeting. If such application is made within the time specified, the Commissioners shall not undertake the work until the decision of the committee of the Commissioners or the Commissioners shall have been given.

Commissioners, in default of owner or occupier, may

440. Subject to the above provisions, whenever any work is required by this Act or by any orders of the Commissioners lawfully issued to be executed by the owner or occupier of any house or land, and default is made in the

execution of such work, the Commissioners, whether any penalty is or is not provided for such default, may cause such work to be executed; execute work and recover expenses.

and the expenses thereby incurred or incurred in any case in which the Commissioners are empowered to execute any work on behalf of an owner or occupier shall be paid by the person by whom such work ought to have been executed, or on whose behalf it is done, and in default of payment thereof the same may be recovered as a rate under Chapter VI.

441. If the defaulter, as mentioned in the last preceding section, be the owner of any house or land, the Commissioners may, by way of additional remedy, whether any suit or proceeding has been brought or taken against any such owner or not, require the payment of all or any part of the expenses payable by the owner for the time being from the person who then, or at any time thereafter, occupies the house or land under such owner, and, in default of payment thereof by such occupier on demand, the same may be recovered as a rate under Chapter VI; Power to levy charges on occupier, who may deduct the same from his rent.

and every such occupier shall be entitled to deduct from the rent payable by him to the owner so much as is so paid by, or recovered from, him in respect of any such expenses.

442. No occupier of any house or land shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof than the amount of rent due from him for the house or land in respect of which such expenses are payable at the time of the demand made upon him, or which, at any time after such demand, has accrued and become payable by him, unless he neglect or refuse, upon a requisition made to him for that purpose by the Commissioners, truly to disclose the amount of his rent, and the name and address of the person to whom such rent is payable; Occupier not to be liable for more than the amount of rent due.

but nothing in this section shall affect any special contract made between any such owner or occupier respecting the payment of the expenses of any such works as aforesaid.

443. Whenever any expenses incurred by the Commissioners are to be paid by the owners of any land as provided in section 440, the Commissioners may, if there be more than one owner, apportion the said expenses among such of the owners as are registered under section 128 in such manner as to the Commissioners may seem fit. And, whenever any such expenses are to be paid by the occupiers of any land as provided in section 440, the Commissioners may, if there be more than one occupier, apportion the said expenses among such of the occupiers as are known in such manner as to the Commissioners may seem fit. Commissioners may apportion expenses incurred on behalf of owners or occupiers amongst them.

444. Whenever any works or any alterations or improvements, of which On certificate

of the Commissioners, occupier may recover expenses from owner.

the Commissioners are authorized to require the execution, are executed by the occupier on the requisition of the Commissioners or are executed by the Commissioners and the cost thereof is recovered from the occupier, the cost thereof may, if the Commissioners certify that such cost ought to be borne by the owner, be deducted by such occupier from the rent payable to such owner, or may be recovered by such occupier from the owner in any Court of competent jurisdiction.

Right of Commissioners to recover expenses under section 440 not barred by suit.

445. Any owner or occupier of land may contest his liability to pay any expenses with which he may be charged under section 440, or may contest the correctness of the amount which he has been called upon to pay in any Court of competent jurisdiction:

Provided that the institution of a suit shall in no way interfere with the right of the Commissioners to recover the amount demanded by them in the manner provided by section 440.

Occupier, in default of owner, may execute work and deduct expenses from his rent.

446. Whenever default is made by the owner of any house or land in the execution of any work required to be executed by him, the occupier of such house or land may, with the approval of the Commissioners, cause such work to be executed;

and the expense thereof shall be paid to him by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Proceedings in case of tenants opposing the execution of this Act.

447. If the occupier of any house or land prevent the owner thereof from carrying into effect, in respect of any house or land, any of the provisions of this Act, after notice of his intention so to do has been given by the owner to such occupier, any Magistrate may, in writing, require such occupier to permit the owner to execute all such works with respect to such house or land as may be necessary for carrying this Act into effect;

and if, after the expiration of eight days from the date of the order, such occupier continue to refuse to permit such owner to execute such works, every such owner, during the continuance of the refusal, shall be discharged from liability to any fines to which he might otherwise have become liable by reason of default in executing such works.

Penalty.

448. Whoever, being the occupier of any house or land, fails to comply with any requisition made by a Magistrate under the last preceding section, shall be liable to a fine not exceeding fifty rupees, and to a further fine not exceeding twenty rupees for each day during which the offence is continued after he has been convicted of such offence.

When there are gradations of owners or

449. Whenever by this Act any right is conferred or duty imposed on the owner or occupier of any premises, and doubt arises owing to there being

gradations of owners or occupiers as to who is the owner or occupier entitled to exercise such right or bound to perform such duty, the Commissioners may, after due enquiry, determine from time to time which of such persons is thus entitled or bound:

occupiers, Commissioners empowered to determine which of such owners is to enjoy the rights and perform duties which appertain to owners or occupiers under this Act.

Provided that, if one of the persons regarding whom doubt exists is registered under section 128 as owner or occupier, such person shall be entitled to exercise such rights or bound to perform such duty till his name has been duly removed from the register.

LEGISLATIVE LIBRARY

450. No tax or rate on property made under this Act shall be invalid for defect of form, and it shall be enough in any such tax or rate, or any assessment of value for the purpose of making such tax or rate, if the property rated or assessed is so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof.

Formal defects not to invalidate tax or assessment.

451. Whenever the Commissioners shall have incurred any expenses in the execution of any of the works which under sections 215, 259, 277 and 282 the owners of any houses or lands are required to execute, the Commissioners may either recover the amount of such expenses in the manner hereinbefore provided, or, if they think fit, may take engagements from the said owners for the quarterly payment of such sums as will be sufficient to defray the whole amount of the said expenses, with interest thereon at the rate of six per cent. per annum, within a period not exceeding five years, and such sums, when due, may be recovered as rates under Chapter VI.

Recovery of expenses on account of improvements to private property.

452. All police-officers shall give immediate information to the Commissioners of any offence committed against this Act.

Police-officers to report offences to Commissioners, and to arrest unknown offenders.

Any police-officer may arrest any person committing in his view any offence against this Act if the name and the address of such person be unknown to him,

or if such person decline to give his name and address,

or if the police-officer shall have reason to doubt the accuracy of such name and address if given.

And such person may be detained at the station-house until his name and address shall be correctly ascertained, or may be brought up at once before a Magistrate.

453. Any mehter or other servant of the Commissioners employed to remove or otherwise deal with sewage, offensive matter or rubbish who shall, without the permission of the Commissioners, withdraw from his duties unless he has given notice in writing, not less than one month previously, of his intention so to withdraw, shall be punished with rigorous imprisonment for

Penalty for mehter withdrawing from work without notice.

a term which may extend to three months, and shall forfeit any salary which may be due to him.

Certain provisions of Act may be extended.

454. If the Local Government shall have determined that any portion of the environs of Calcutta shall be included in the water-supply authorized by this Act, and if the Local Government shall have declared the boundaries thereof by notification in the Calcutta Gazette, then in respect of such extension of such water-supply the provisions of Chapter VII of this Act shall take effect one month after the publication of such notification;

and all such expenses and compensation as, under such Chapter and by the provisions of this Act, may be determined by a Court of Small Causes, may be ascertained and determined by any Court of Small Causes having jurisdiction within such boundaries; and all fines payable in respect of such sections, and under this Act, shall be enforced in the manner prescribed by sections 386, 387 and 389 of the Code of Criminal Procedure[a] by the Magistrate having jurisdiction within such boundaries. X of 1882.

Houses used for public worship exempt from rates and taxes.

455. Houses used exclusively for purposes of public worship and public burial and burning grounds duly registered shall be exempt from all rates and taxes which under this Act may be imposed upon houses and land within Calcutta, and it shall be lawful for the Commissioners to exempt the owner of any hut from payment of all or any rate in respect of such hut.

Saving clause.

456. Nothing in this Act contained shall be construed to—

(*a*) render lawful any act or omission on the part of any person which, but for this Act, would by law be deemed to be a nuisance:

(*b*) exempt any person guilty of nuisance from a suit in respect thereof:

(*c*) affect any enactment not hereby expressly repealed.

Notification of intention to alter limits of Calcutta.

457. The Local Government may, by notification published in the Calcutta Gazette, and in such other manner as the Local Government may determine, declare its intention—

(*a*) to exclude from Calcutta any local area not being within the ordinary original jurisdiction of the High Court at Fort William in Bengal;

(*b*) at the request of the Commissioners in meeting to include within Calcutta any local area in the vicinity of the same and defined in the notification:

Provided that, where the local area is a military cantonment or part of a military cantonment, a notification shall not be published under this section in respect of it without the previous sanction of the Governor General in Council.

Alteration of

458. Any inhabitant of Calcutta or of a local area in respect of which a

[a] See General Acts, 1882 (Pt. I), p. 350.

notification has been published in the Calcutta Gazette under the last preceding section may, if he objects to the alteration proposed, submit his objection in writing to the Local Government within six weeks from the publication of the notification in the Calcutta Gazette, and the Local Government shall take his objection into consideration.

limits of Calcutta.

When six weeks from the publication of the notification in the Calcutta Gazette have expired, and the Local Government has considered the objections (if any) which have been submitted under this section, the Local Government may, by a notification in the Calcutta Gazette, exclude the local area from Calcutta or include it therein, as the case may be.

Effect of exclusion of local area from Calcutta.

459. When a local area is excluded from Calcutta under the last preceding section—

(*a*) this Act, and all rules, orders, directions and powers made, issued or conferred under this Act, shall cease to apply thereto; and

(*b*) the Local Government shall, after consulting the Commissioners, frame a scheme determining what portion of the balance of the general fund and other property vested in the Commissioners shall vest in Her Majesty for the benefit of the local area, and in what manner the liability of the Commissioners shall be apportioned between the Commissioners and the Secretary of State for India in Council, and, on the publication of the scheme in the Calcutta Gazette, the property and liabilities shall vest and be apportioned accordingly.

All property vested in Her Majesty under this section shall be applied, under the orders of the Local Government, to discharging the liabilities imposed on the Secretary of State for India in Council under this section, or for the promotion of the safety, health or convenience of the inhabitants of the local area.

Effect of including local area in Calcutta.

460. When a local area is included in Calcutta under section 458, this Act, and except as the Local Government may otherwise by notification in the Calcutta Gazette direct, all rules, orders, directions and powers made, issued or conferred under this Act, and in force throughout Calcutta at the time the local area is so included, shall apply to the local area.

Budget estimate for 1889-90 to be made under provisions of Schedule XIII.

461. The provisions of Schedule XIII shall apply to the budget for the year 1889-90, and to the rates and taxes which shall be levied during that year; and the provisions of Bengal Act IV of 1876,[a] so far as they are inconsistent with the provisions of the said schedule, shall be repealed so far as they relate to preparing and passing such budget, and to fixing the rates and taxes to be levied during the year 1889-90.

[a] Ben. Act IV of 1876 is repealed by this Act—see Sch. I, *infra*, p. 1004.

(*The First Schedule.—Repeal of Acts. The Second Schedule.—Rules for granting Licenses on Professions, Trades and Callings.*)

THE FIRST SCHEDULE.

(*See section 2.*)

ACTS OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
Act IV of 1876 .	To consolidate and amend the law relating to the Municipal affairs of Calcutta.	The whole.
Act VI of 1881 .	To amend the Calcutta Municipal Consolidation Act, 1876.	The whole.
Act I of 1882 .	To further amend the Calcutta Municipal Consolidation Act, 1876.	The whole.
Act III of 1884 .	To amend and consolidate the laws relating to Municipalities.	In the second schedule the words "Suburbs of Calcutta."
Act III of 1886 .	To amend Bengal Acts IV of 1876 and III of 1884.	So far as it amends Bengal Act IV of 1876.

THE SECOND SCHEDULE.

(*See sections 8 and 87.*)

RULES FOR GRANTING LICENSES ON PROFESSIONS, TRADES AND CALLINGS.

(1) Licenses shall be either personal or local, and shall be granted under seven classes.

A local license is a license the classification of which depends on the valuation of the place of business, and also a license granted under Class V, clauses (*d*) and (*e*), Class V, clause (*c*), and class VI, clause (*a*).

The seven classes are as follows :—

Class I.—Rs. 200.

Every Joint-Stock Company the paid-up capital of which amounts to ten lakhs of rupees or upwards.

Class II.—Rs. 100.

(*a*) Every other Joint-Stock Company.

(*b*) Every merchant, banker, wholesale trader, commission agent, architect, civil engineer, builder, contractor, carrying company, owner or lessee of a cotton, jute, hide or other screw, market, bázár, theatre, place of public entertainment kept up for the purpose of profit, auctioneer, hotel-keeper, boarding-house-keeper, lodging-house-keeper, manufacturer, retail trader or shop-keeper whose place of business is valued under Chapter V at Rs. 350 per mensem or upwards.

(The Second Schedule.—Rules for granting Licenses on Professions, Trades and Callings.)

Class III.—Rs. 50.

(*a*) Every practising surgeon, physician, dentist, barrister, attorney, vakeel of the High Court, proctor, notary public, shroff or banian.

(*b*) Every merchant, banker, wholesale trader, commission agent, architect, civil engineer, builder, contractor, carrying company, owner or lessee of a cotton, jute, hide or other screw, or of a market, bázár, theatre, not liable under Class II.

(*c*) Every auctioneer, hotel-keeper, boarding-house-keeper, lodging-house-keeper, shop-keeper, plumber, gas-fitter, manufacturer or retail trader not liable under Class II, whose shop or place of business is valued under Chapter V at Rs. 100 a month or upwards.

Class IV.—Rs. 25.

(*a*) Every broker or dalall employed in the wholesale transfer or purchase of imports or exports, country produce, silk or other merchandise, every person not coming under Class III who purchases goods in Calcutta for transport and sale beyond the limits of Calcutta.

(*b*) Every broker or dealer in precious stones, houses, landed property, Government securities, shares and bills-of-exchange, and every freight broker.

(*c*) Every practising licentiate of medicine, apothecary and veterinary surgeon.

(*d*) Every owner of a spirit or liquor shop or shop for the sale of intoxicating drugs, and punch-house, music hall or billiard room, wholesale tobacco, jute or other depôt.

(*e*) Every owner of a steam ferry-boat or cargo-boat.

(*f*) Every pawnbroker or money-lender.

(*g*) Every pleader, mukhtár or law agent not liable under Class III.

(*h*) Every hotel keeper, boarding-house-keeper, lodging-house-keeper, plumber, gas-fitter, carriage and horse dealer, shop-keeper, manufacturer or trader, whose shop or place of business is valued under Chapter V at Rs. 25 or upwards.

Class V.—Rs. 12.

(*a*) Every broker or dalall not liable under Class IV.

(*b*) Every professional actor, singer or musician.

(*c*) Every keeper of a permanent stall at a daily public market or bázár, or of a shop within fifty yards of a public market or bázár, selling

goods of the same kind as any of the goods sold in such public market or bázár.

(*d*) Every poddar or money-changer.

(*e*) Every hakeem, koberaj, practising native doctor or midwife.

(*f*) Every order-supplier, coolie supplier, shipping agent or boat-supplier.

(*g*) Every hotel-keeper, boarding and lodging-house keeper, owner of a carriage, passenger-boat or palanquin let out for hire, plumber, gas-fitter, band-supplier, carrier, stamp-vendor, carriage or horse dealer, shop-keeper, manufacturer or trader whose shop or place of business is valued under Chapter V at Rs. 10 or upwards.

Class VI.—Rs. 4.

(*a*) Every keeper of a shop or place of business not included in any other class.

(*b*) Every petty dalall not included in Class IV.

(*c*) Every pedlar, vendor of goods in carts, hawker, box-wallah and every professional nurse not included in Class V.

Class VII.—Re. 1.

All itinerant dealers hawking goods for sale in baskets or trays.

(2) No person shall be required to take out more than one personal license:

Provided that if he is liable under different classes he shall take out a license under the highest class under which he is liable.

(3) When two or more persons carry on business jointly, they may take out a single license as a firm; but, if any of the partners exercises any separate profession, trade or calling on his own account or with other partners, he must take out a separate license.

(4) A separate local license shall be requisite for each separate place of business:

Provided that no separate license shall be necessary for adjacent premises forming one place of business or for yards, godowns or factories auxiliary to a place of business, but in such cases the valuation of all the premises, yards or godowns shall be computed in determining the class under which the license must be taken out.

(5) When any person practises a profession, trade or calling for which a personal license should be taken out, and is also the owner or lessee of a place of business for which a local license should be taken out, he shall take ou separate licenses, but one license will suffice if the place of business is auxiliary to his profession, trade or calling.

(6) When the owner or lessee of any place is liable to take out a license, the license should be taken out by the lessee, if there is any lessee; if not, by the owner.

(7) The liability of any person to take out a license, and the class under which he is liable, shall be determined in the following manner:—

(*a*) Any person who has taken out a license for the preceding year or been fined under section 90 for not taking out a license during such year, shall be presumed to be liable and entitled to take out a license under the class in which he was then placed in the year for which the tax is being levied.

(*b*) Any person who, in consequence of any change in his profession, trade or calling, or place of business, or for any other reason, considers himself entitled to take out a license in a lower class than before, or to be altogether exempted, may present an application to that effect to the Commissioners at any time before the first day of July. If no application is made by that date, he will be liable to take out a license as prescribed in clause (*a*).

The Commissioners shall pass orders on such application, and the license shall be taken out in accordance with such orders, unless appealed against under clause (*e*).

(*c*) If the Commissioners consider that any person who has not taken out a license in the preceding year ought to take out a license, or that any person who has taken out a license for the preceding year but has not taken out a license for the current year ought to take out a license in a higher class or more than one license, they may serve him with a notice directing him to take out a license for the current year in such class as may seem to them proper.

(*d*) If the Commissioners consider that any person who has taken out a license for the current year ought to have taken out a license in a higher class, they may serve him with a notice directing him to take out a license in such higher class the following year, and such person shall thereupon, unless such order is modified, be bound to take out a license in such higher class, clause (*a*) notwithstanding.

If a person is summoned for not taking out a license, and service of notice under clauses (*c*) and (*d*) is not proved, it shall be incumbent on the Commissioners to prove that the person summoned is liable to take out a license, as well as the class under which he is liable.

(*e*) Any person dissatisfied with the orders of the Commissioners under clause (*b*), or on whom a notice is served under clause (*c*) or clause (*d*), may appeal against the orders contained in it—

(1) to a bench consisting of the Chairman or Vice-Chairman and not less than three Commissioners, or

(2) to a Court of Small Causes having jurisdiction in the place in which the profession, trade or calling is said to be carried on.

(8) In case of an appeal to a Court of Small Causes under this schedule, the said Court may follow the procedure laid down in sections 42*f* and 425.

(*f*) Such person shall, within fifteen days of the passing of the order, or of the receipt of the notice, deliver at the office of the Commissioners an application in writing, stating the grounds of appeal, and also informing the Commissioners whether he intends to appeal under clause (1) or clause (2).

No appeal shall lie unless the amount of the license as assessed has been deposited with the Commissioners.

The Commissioners may, if they think fit, extend the period of an appeal under clause (1).

(*g*) The order of the Bench or Court, or, if no appeal is made, the order contained in the notice, shall be final.

(9) The Commissioners may at any time grant a license for any previous year for which no license has been taken out on payment of the amount of such license, but the production of such license shall not afford a valid defence if the licensee is prosecuted for failing to take out a license within the time required by this Act.

THE THIRD SCHEDULE.

Boundaries of Wards.

(*See section 15.*)

Ward No. 1.—Bounded on the north and east by the Circular Canal; south by Grey Street and Ooltadanga Road; west by Upper Chitpore Road.

Ward No. 2.—Bounded on the north by the Mahratta Ditch; west by river Hooghly; south by Nimtollah Ghát Street; east by Upper Chitpore Road.

Ward No. 3.—Bounded on the north by Ooltadanga Main Road, the Mahratta Ditch, and Grey Street; south by Beadon Street and Manicktollah Road; west by Upper Chitpore Road; east by the Circular Canal.

Ward No. 4.—Bounded on the north by Beadon Street and Manicktollah Road; south by Machooa Bázár Road; east by the Circular Canal, Narikhaldanga Road; and west by Cornwallis Street.

Ward No. 5.—Bounded on the north by Nimtollah Ghát Street; south by Cotton Street and Meerboher Ghát Street; east by Upper Chitpore Road; west by river Hooghly.

Ward No. 6.—Bounded on the north by Beadon Street; south by Machooa Bázár Road; east by Cornwallis Street; west by Upper Chitpore Road.

Ward No. 7.—Bounded on the north by Cotton Street and Meerboher Ghát Street; south by Loll Bázár Street, Dalhousie Square, North, and Fairlie Place; east by Lower Chitpore Road; west by river Hooghly.

Ward No. 8.—Bounded on the north by Machooa Bázár Road; south by Bow Bázár Street; east by College Street; west by Lower Chitpore Road.

Ward No. 9.—Bounded on the north by Machooa Bázár Road and Narikhaldanga Road; south by Bow Bázár Street and the Balliaghatta Road; east by the Circular Canal; west by College Street.

Ward No. 10.—Bounded on the north by Bow Bázár Street; south by Dhurrumtollah Street; east by Wellington Street; west by Bentinck Street.

Ward No. 11.—Bounded on the north by Bow Bázár Street; south by Dhurrumtollah Street; east by Lower Circular Road; west by Wellington Street.

Ward No. 12.—Bounded on the north by Loll Bázár Street, Dalhousie Square and Fairlie Place; south by Esplanade Row; east by Bentinck Street; west by river Hooghly.

Ward No. 13.—Bounded on the north by Dhurrumtollah Street; south by Kyd Street, Free School Street, and South Culinga Street; east by Wellesley Street; west by Chowringhee Road.

Ward No. 14.—Bounded on the north by Dhurrumtollah Street; south by South Culinga Street; east by Lower Circular Road; west by Wellesley Street.

Ward No. 15.—Bounded on the north by South Culinga Street; south by Theatre Road; east by Lower Circular Road; west by Wellesley Street and Wood Street.

Ward No. 16.—Bounded on the north by Kyd Street and South Culinga Street; south by Theatre Road; east by Wellesley Street and Wood Street; west by Chowringhee Road.

Ward No. 17.—Bounded on the north by Theatre Road; south by Lower Circular Road; east by Lower Circular Road; west by Chowringhee Road.

Ward No. 18.—Bounded on the north by Clyde Road; south by Tolly's Nullah Road; east by Kidderpore Bridge Road; and west by Strand Road.

Ward No. 19.—Bounded on the north by the Baliaghatta and the new Canal; south by Gobrah Road, Christopher's Lane, Puddopookur Road, Phulbagan Road, Nawab Bagan Road, and Police Hospital Road; east by the Pagladanga Road, Chingrahatta Road, Tangra Road, and Topsea Road; west by Circular Road.

Ward No. 20.—Bounded on the north by Ward No. 19; south by Kumal Road, Sapir Jemadar's Lane, Mohir Mohsin's Lane, Karriah Bagan, Tiljullah Road, and Topsea Road; east by Topsea Road; west by Lower Circular Road.

Ward No. 21.—Bounded on the north by Ward No. 20; south by the new embankment from the Eastern Bengal Railway to Tolly's Nullah; east by the South-Eastern Bengal Railway; west by Lower Circular Road, Chuckerbaree Road, Moley Bustee Road, Gurreah Road, Russapaglah Road, Tollygunge Bridge and Road, and Tolly's Nullah.

Ward No. 22.—Bounded on the north by Lower Circular Road, and the road leading from it to the Jeerat bridge; south by Ward No. 21; east by Ward No. 21; west by Tolly's Nullah.

Ward No. 23.—Bounded on the north by Tolly's Nullah; south by the Goragachee Road; east by Tolly's Nullah; west by Diamond Harbour Road.

Ward No. 24.—Bounded on the north by Komedan Bagan Lane and Circular Garden Reach Road; south by Goragachee Road; east by Diamond Harbour Road; west by Some 3rd Lane and Some 4th Lane.

Ward No. 25.—Bounded on the north by the river Hooghly; south by Ward No. 24; east by Tolly's Nullah and Diamond Harbour Road; and west by the Goragachee Road.

THE FOURTH SCHEDULE.

(*See section 77.*)

TAX ON CARRIAGES AND ANIMALS.

	Per half-year. Rs.	A.	P.
For a four-wheeled carriage drawn by two horses . . .	12	0	0
If any person owns more than one such carriage, then for every such carriage after the first, two-thirds of the above rate.			
For a four-wheeled carriage drawn by one horse, or pony or mule, or a pair of ponies or mules under 13 hands . .	6	0	0
For a two-wheeled carriage drawn by one or more animals .	6	0	0
For every horse (*not a race horse*), pony or mule . . .	6	0	0
For every race horse	12	0	0
For every pony or mule under 13 hands	2	0	0

THE FIFTH SCHEDULE.

(*See section 142.*)

NOTICE OF DEMAND.

TAKE notice that the Commissioners of Calcutta demand from you the sum of due from* [you] as owner (*or occupier*) (*here describe the property or thing upon which the rate or tax is imposed*) for the month of 18 ; and that, if the sum due, together with for this notice, is not paid into the office of the said Commissioners at , or if sufficient cause for the non-payment of the sum is not shown to the Commissioners, within seven days from the service of this notice, a warrant of distress will be issued for the recovery of the same with costs.

(*Signature of the Chairman, Vice-Chairman, Secretary or Assessor.*)

L. S.

Date ———

* In the case of a demand on the occupier of a house under section 146, state that notice of demand has been served upon the owner, and that the sum due remains unpaid.

THE SIXTH SCHEDULE.

(*See section 142.*)

DISTRESS WARRANT.

To (*here insert the name of the officer charged with the execution of the warrant*).

WHEREAS of has not paid or shown sufficient cause for the non-payment of the sum of rupees due for the rates (*or taxes*) (*or taxes and rates*) mentioned in the margin for the months of 18 ; although the said sum has been duly demanded in writing from the said and seven days have elapsed since the service of the notice of demand: This is to command you to distrain the moveable property of the said (*or, as the case may be, any moveable property found on the premises referred to*) to the amount of the said sum

of rupees, and such further sum as may be sufficient to defray the charges of taking, keeping and selling such distress; and, if within seven days next after such distress the said sum shall not be paid, together with such further sum as may be sufficient to defray the charges of taking and keeping such distress, to sell the said moveable property; and, having paid and deducted out of the proceeds of the sale the said sum of rupees and the charges of taking, keeping and selling such distress, to return the surplus, if any, on demand, to the person whom you shall find in possession of the said moveable property. If sufficient distress cannot be found of the moveable property of the said , you are to certify the same to us together with this warrant.

(*Signature of the Chairman,*
Vice-Chairman or Secretary.)

THE SEVENTH SCHEDULE.

(*See section 143.*)

FORM OF INVENTORY AND NOTICE.

(*State particulars of goods seized.*)

TAKE notice that I have this day seized the moveable property specified in the above inventory for the sum of rupees due for the rates (*or taxes*) mentioned in the margin for the months of 18 : and that, unless you pay into the office of the Commissioners of Calcutta the amount due, together with the costs of this distress, within seven days from the day of the date of this notice, the said property will be sold.

(*Signature of the Officer executing*
the Warrant of Distress.)

Date ____

(*The Eighth Schedule.—Table of Fees payable in Distraints. The Ninth Schedule.—Scale of Ferrules in Houses.*)

THE EIGHTH SCHEDULE.

(*See section 144.*)

Table of Fees payable in Distraints.

Sum distrained for.	Fee.	
	Rs.	As.
Under 5 Rupees	0	4
5 and under 10 Rupees	0	8
10 " 15 "	1	0
15 " 20 "	1	8
20 " 30 "	2	0
30 " 40 "	3	0
40 " 50 "	4	0
50 " 60 "	5	0
60 " 70 "	6	0
70 " 80 "	7	0
80 " 90 "	8	0
90 " 100 "	9	0
Above 100	10	0

The above charge includes all expenses except when peons are kept in charge of property distrained, in which case four annas must be paid daily for each man.

THE NINTH SCHEDULE.

(*See section 153.*)

Scale of Ferrules in Houses.

If the valuation of the house be—

		The size of the Ferrule shall be—	
From	1 to 59	$\frac{1}{8}$	inch.
"	60 to 119	$\frac{3}{16}$	"
"	120 to 599	$\frac{1}{4}$	"
"	600 to 1,199	$\frac{3}{8}$	"
"	1,200 to 2,390	$\frac{7}{16}$	"
"	2,400 to 3,599	$\frac{1}{2}$	"
Above	3,600	$\frac{3}{4}$	"
		$\frac{7}{8}$	"
		1	"

or such other scale as the Local Government may, on the recommendation of the Commissioners in meeting, prescribe.

THE TENTH SCHEDULE.

(*See sections 183 and 184.*)

REGISTRATION OF BIRTHS.

18 . BIRTHS IN THE DISTRICT OF

Number.	When born.	Nationality or caste.	Name, if any.	Sex.	Name of father.	Profession of father.	Signature, description and residence of informant.	When registered.	Signature of Registrar.

THE ELEVENTH SCHEDULE.

(*See sections 183, 184, 186, 187 and 190.*)

REGISTRATION OF DEATHS.

18 . DEATHS IN THE DISTRICT OF .

Number.	When died.	Nationality or caste.	Name.	Sex.	Age.	Profession.	Cause of death.	Residence at time of death.	Residence previous to last illness.	Signature, description and residence of informant.	When registered.	Signature of Registrar.

THE TWELFTH SCHEDULE.

(*See section 405.*)

FORM OF DEBENTURE.

The Commissioners for Calcutta.

No. *Calcutta, the* *18* .

By virtue of the Calcutta Municipal Consolidation Act, 1888, we, the Commissioners of Calcutta incorporated under the said Act, in consideration of the sum of
rupees paid to us by A. B. of , promise to pay to the said or order the said sum of rupees after the date hereof, together with interest thereon at the rate of per centum per annum, payable half-yearly on the day of and the day of , and by way of security for such payment we do hereby assign to the said [A. B.] so much of the proceeds of the rates and taxes payable to the Commissioners by virtue of the Act aforesaid as shall suffice to satisfy the claim of the said [A. B.] in respect of the principal sum together with the interest thereon.

(*Signature of the Chairman or Vice-Chairman, and two Commissioners.*)

THE THIRTEENTH SCHEDULE.

(*See section 461.*)

TRANSITORY PROVISIONS.

1. The budget for 1889-90 shall show what expenditure it is proposed to incur in the town, as well as in the area added to the town by this Act during that year; and the manner in which it is proposed to meet such expenditure. **Budget of expenditure for 1889-90.**

2. Such budget shall, at a special general meeting of the Commissioners of the town of Calcutta to be held in the month of February, 1889, be referred to a [Special Committee of eighteen members, of which twelve shall be chosen by the Commissioners of the Town of Calcutta at the special general meeting which shall order the reference, and six shall be chosen by the Commissioners of the Suburbs of Calcutta. **Budget estimate for 1889-90 referred to Special Committee.**

3. Such Committee shall meet at such times and places as the Chairman, subject to the decision of the Committee, may appoint; and shall, within **Return of budget estimate for**

1889-90 Commissioners.

twenty-one days of its appointment, return the budget to the Commissioners of the Town of Calcutta with such modifications and comments as may seem expedient.

Passing of budget for 1889-90, and fixing of rates.

4. The Commissioners of the Town of Calcutta shall, at a special general meeting to be held in the month of March, consider such budget as modified by the Special Committee, and pass it, subject to such further modifications or additions as may be thought fit. The said Commissioners shall thereupon, at the same meeting, or, if such meeting be adjourned, at an adjourned meeting, fix, with reference to the budget as passed, the rates at which the rates and taxes mentioned in this Act shall be imposed for the year commencing the first April, 1889; and the rates and taxes so fixed shall have the same force in Calcutta for the year 1889-90 as if they had been fixed by the Commissioners in meeting for any subsequent year under section 71 of this Act.

ACT No. III OF 1888.

Received the Lieutenant-Governor's assent on the 16th May, 1888, and the Governor General's assent on the 20th September, 1888.

An Act to amend the Howrah Bridge Act, IX of 1871.

Preamble.

WHEREAS it is expedient to empower the Lieutenant-Governor of Bengal to remit the payment of the tolls, fees and charges levied under the provisions of the Howrah Bridge Act of 1871 upon all passengers, animals, vehicles and goods using or conveyed upon the said bridge, and to re-impose the payment of the fees on any goods or any passengers which may have been exempted from such payment under section 4 of the said Act; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Howrah Bridge Act Amendment Act, 1888.

Construction and commencement of Act.

2. It shall be read with, and taken as part of, Bengal Act IX of 1871; and it shall come into force from the date[a] on which it may be published in the Calcutta Gazette with the assent of the Governor General.

Amendment of section 3 of Ben. Act IX of 1871.

3. For the proviso to section 3 the following proviso shall be substituted:—

[See *supra*, p. 181.]

Amendment of section 4 of Ben. Act IX of 1871.

4. After the proviso to section 4 the following proviso shall be added:—

[See *supra*, p. 181.]

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[a] *i.e.*, the 3rd October, 1888.

ACT No. I OF 1889.

Received the Lieutenant-Governor's assent on the 22nd April, 1889, and the Governor General's assent on the 7th May, 1889.

An Act to provide for the sanitation of Emigrants during their passage through Bengal to the Labour-districts in Assam.

1 of 1882. WHEREAS it is provided in section 7 of the Inland Emigration Act, 1882,[a] that, subject to the provisions of section 5 of that Act, nothing in the Act is to be deemed to prohibit any native of India from emigrating to any of the labour-districts otherwise than under the provisions of the Act; Preamble.

and whereas natives of India emigrate in large numbers to the labour-districts otherwise than under those provisions;

and whereas in the territories administered by the Lieutenant-Governor of Bengal great sickness and mortality have occurred among such emigrants on their way to the labour-districts;

It is hereby enacted as follows:—

Short title, extent and commencement of Act.

1. (*1*) This Act may be called the Inland Emigrants' Health Act, 1889.

(*2*) It extends to the whole of the territories administered by the Lieutenant-Governor of Bengal; and

(*3*) It shall come into force on the day[b] on which it is published in the Calcutta Gazette with the assent of the Governor General.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

"agent" means a person who engages or assists a native of India to emigrate otherwise than under the provisions of the Inland Emigration Act, 1882: "Agent."

1 of 1882.

"dependent" means any woman (not being herself an emigrant), child or aged or incapacitated relative or friend accompanying an emigrant with the consent of the agent: "Dependent."

"emigrant" means a native of India engaged or assisted by an agent so to emigrate: "Emigrant."

"emigrate" denotes the departure of any native of India of the age of sixteen years or upwards (other than a native of any of the labour-districts) from any part of India for the purpose of labouring for hire in any of the labour-districts otherwise than as a domestic servant: "Emigrate."

"labour-districts" means the districts of Lakhimpur, Sibságar, Nowgong, "Labour-districts."

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[a] See Vol. I, p. 456.

[b] *i.e.*, the 15th May, 1889.

Darrang, Kámrúp, Goálpára, Khási Hills, Cachar and Sylhet in the Chief Commissionership of Assam.

Power to make rules for protection in Bengal of the health of emigrants on their way to Assam.

3. (*1*) The Local Government may from time to time make rules with respect to any of the following matters, namely :—

(*a*) the routes by which emigrants and their dependents are to travel on their way to any of the labour-districts;

(*b*) the depôts and rest-houses to be provided by, and at the cost of, agents for the accommodation of emigrants and their dependents on or off such routes, and the sanitation and superintendence of such depôts and rest-houses;

(*c*) the mode, and the numerical strength of the parties, in which emigrants and their dependents are to travel, the arrangements to be made by, and at the cost of, agents for facilitating their journey, the length of their daily marches by road, and the provision to be made by, and at the cost of, agents for the carriage of women and dependents and of emigrants suffering from sickness;

(*d*) the food to be supplied to emigrants and their dependents by, and at the cost of, agents, and the provision to be made by, and at the cost of, agents for the proper cooking of such food;

(*e*) the water-supply to be maintained by, or at the cost of, agents for the use of emigrants and their dependents;

(*f*) the clothing to be supplied to emigrants and their dependents by, and at the cost of, agents;

(*g*) the hospital accommodation, medical treatment and maintenance to be provided by, or at the cost of, agents for emigrants or their dependents suffering from sickness on their way to any of the labour-districts, and the arrangements to be so made, and maintenance so provided, for any emigrant and his dependents where either he or any of them is so suffering;

(*h*) the disposal of dead bodies of emigrants and their dependents at the cost of agents;

(*i*) the powers of entry and inspection which may be exercised for the purposes of any rule under this section, and the authorities by whom those powers may be exercised;

(*j*) the mode of compelling agents to discharge their liabilities under any rule under this section; and

(*k*) generally the giving effect to the purposes of this Act.

(*2*) In making any rule under this section, the Local Government may direct that a breach of it shall be punishable with fine which may extend to

five hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to fifty rupees for every day after the first during which the breach continues.

(*3*) If a rule under this section authorises an officer of the Government to expend any public money in the event of default on the part of an agent to comply with any rule under that section, the money, together with simple interest thereon at the rate of six per cent. yearly, shall be recoverable from the agent under the provisions of the Public Demands Recovery Act, 1880.[a]

Ben. VII of 1880.

(*4*) Nothing in the last preceding clause shall be construed to bar a prosecution for any breach of a rule where the breach thereof has been made punishable in pursuance of the power conferred by clause (*2*) of this section.

THE PRIVATE FISHERIES PROTECTION ACT, 1889.

CONTENTS.

SECTIONS.

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   Removal of obstructions.
5. Entry upon the land of another or upon private waters with intent to commit an offence.
6. Offences under this Act considered "cognizable offences."

ACT No. II OF 1889.[b]

Received the Lieutenant-Governor's assent on the 15th May, 1889, and the Governor General's assent on the 15th June, 1889.

An Act for the protection of the right of fishing in private waters.

WHEREAS it is expedient to provide for the protection of private rights of fishery; It is hereby enacted as follows:— Preamble.

1. This Act may be called the Private Fisheries Protection Act, 1889. Short title.

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[a] See *supra*, p. 515.

[b] This Act has been extended to Assam under s. 5 of the Scheduled Districts Act, 1874—see Appendix to Assam Supplement.

Interpretation-clause. "Fish."

2. In this Act—

"fish" includes shell-fish and turtles:

"Fixed engine."

"fixed engine" means any net, cage, trap or other contrivance for taking fish, fixed in the soil or made stationary in any other way:

"Private waters."

"private waters" means waters—

(*a*) which are the exclusive property of any person; or

(*b*) in which any person has an exclusive right of fishery, and in which fish are not confined but have means of ingress or egress.

Penalties.

3. Any person who—

(*a*) fishes in any private waters not having a right to fish therein:

(*b*) erects, places, maintains or uses any fixed engine in private waters, or puts, or knowingly permits to be put, therein any matter for the purpose of catching or destroying fish without the permission of the person to whom the right of fishery therein belongs:

shall be guilty of an offence, and shall be punished for a first offence with a fine not exceeding fifty rupees;

and for a subsequent offence with imprisonment, which may be simple or rigorous, for a term not exceeding one month, or with a fine not exceeding two hundred rupees, or both:

Provided that nothing herein contained shall apply to acts done by any person in the exercise of a *bonâ fide* claim of right, or shall prevent any person from angling with a rod and line or with a line only in any portion of a navigable river.

Forfeiture of fixed engines.

4. (*1*) Any fixed engine erected, placed, maintained or used in contravention of the last preceding section, and any fish taken by means of such engine, or otherwise in contravention of this Act, shall be forfeited.

Removal of fixed engine.

(*2*) And such fixed engine may be removed or taken possession of by the Magistrate of the district, or such person as he empowers in this behalf.

Entry upon the land of another or upon private waters with intent to commit an offence.

5. Whoever enters upon land in the possession of another or upon private waters, with intent to commit any of the offences specified in section 3, shall be punished with a fine not exceeding fifty rupees.

Offences under this Act considered "cognizable offences."

6. Offences committed under this Act shall be considered to be "cognizable offences" as defined in the Code of Criminal Procedure.[a] X of 1882.

[a] See Act X of 1882, s. 4, cl. (*q*), in General Acts, 1882 (Pt. I), p. 244.

ACT No. III OF 1889.

Received the Lieutenant-Governor's assent on the 6th July, 1889, and the Governor General's assent on the 31st July, 1889.

An Act to enable the Commissioners for making Improvements in the Port of Calcutta to lend the Corporation of Calcutta a sum of money.

WHEREAS it is expedient that a street should be constructed by the Corporation of Calcutta connecting the Howrah Bridge with the Sealdah Railway Station ; Preamble.

And whereas it is deemed expedient to empower the Commissioners for making Improvements in the Port of Calcutta to lend out of the Reserve Fund constituted under the Howrah Bridge Act, 1871,[a] without interest, repayable within three years, the sum of Rs. 2,00,000 for the purpose of enabling the said Corporation to meet the interest as it falls due on a loan to be raised by the said Corporation for the construction of such street :

Ben. IX of 1871.

It is hereby enacted as follows :—

1. This Act shall come into force on the date[b] on which it is published in the Calcutta Gazette with the assent of the Governor General. Commencement of Act.

2. Notwithstanding anything in the said Howrah Bridge Act[a] contained, it shall be lawful for the Commissioners for making Improvements in the Port of Calcutta, out of the sum now accumulated as a Reserve Fund under the provisions of the Howrah Bridge Act, 1871,[a] to lend to the Corporation of Calcutta, incorporated under Bengal Act II of 1888,[c] the sum of Rs. 2,00,000 without interest for such period, not exceeding three years, as the Local Government may sanction ; such sum to be devoted to the payment of interest on a loan to be raised by the said Corporation for the construction of a street connecting the Howrah Bridge with the Sealdah Railway Station. Power of Port Commissioners to lend Corporation of Calcutta a sum of money towards defraying interest payable on a loan to be raised by the Corporation.

ACT No. IV OF 1889.

ARRANGEMENT OF SECTIONS.

SECTIONS.

1. Commencement of Act.
2. Definition of "public Muhammadan burial-ground."
3. Local Government may appoint a Burial Board.

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[a] See *supra*, p. 180.
[b] *i. e.*, the 7th August, 1889.
[c] See *supra*, p. 883.

SECTIONS.

4. Constitution of Board.
5. Chairman of Calcutta Corporation to be *ex officio* Chairman of Board.
6. Superintendence, management or control of public Muhammadan burial-grounds enumerated in the First Schedule to be exercised by Board.
7. Local Government may place other public Muhammadan burial-grounds under superintendence, management or control of Board.
8. Provision for making over private burial-grounds to charge of Board.
9. Power in Board to create new burial-grounds or extend those already in existence by purchase of land.
10. Power to withdraw burial-grounds from superintendence, management or control of Board.
11. Board to receive and account for fees and grants.
12. Board may appoint subordinate establishment.
13. Power to make rules.
14. Power to provide for control of burial-grounds used by other than Christians or Muhammadans.

ACT No. IV OF 1889.

Received the Lieutenant-Governor's assent on the 15th July, 1889, and the Governor General's assent on the 2nd September, 1889.

An Act to provide for the appointment of a Muhammadan Burial Board in Calcutta, and to make better provision for the interment of persons other than Christians or Muhammadans.

Preamble.

WHEREAS it is expedient to make better provision for the superintendence, management or control of the Muhammadan burial-grounds, and for the interment of persons other than Christians or Muhammadans, in Calcutta as defined in the Calcutta Municipal Consolidation Act of 1888;[a] Ben. II of 1888.

It is hereby enacted as follows:—

Commencement of Act.

1. This Act shall come into force from the date[b] on which it may be published in the Calcutta Gazette with the assent of the Governor General.

Definition of "public Muhammadan burial-ground."

2. In this Act "public Muhammadan burial-ground" includes those Muhammadan burial-grounds enumerated in the First Schedule, and any others in which Muhammadans generally of any particular sect are in the habit of burying their dead.

Local Government may appoint a Burial Board.

3. The Local Government may, by a notification published in the Calcutta Gazette, appoint a Muhammadan Burial Board for Calcutta.

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[a] See Ben. Act II of 1888, s. 3, *supra*, p. 884.
[b] *i.e.*, the 11th September, 1889.

Constitution of Board.

4. The Board shall be constituted as follows :—

the Chairman for the time being of the Corporation of Calcutta;

the Health Officer for the time being of Calcutta;

an officer of the Public Works Department appointed by the Local Government:

and not less than six, or more than nine, other members who shall be Muhammadans appointed by the Local Government.

(*2*) The Local Government may, from time to time, relieve any member of the Board appointed by it of his functions as such member.

Chairman of Calcutta Corporation to be *ex officio* Chairman of Board.

5. The Chairman of the Corporation of Calcutta shall *ex officio* be Chairman of the Board.

Superintendence, management or control of public Muhammadan burial-grounds enumerated in the First Schedule to be exercised by Board.

6. The superintendence, management or control of the public Muhammadan burial-grounds enumerated in the First Schedule shall, subject to the provisions of this Act, be exercised by the Board :

Provided that the Muhammadan Burial Board shall not exercise control over such portion of any public Muhammadan burial-ground as the Local Government may declare to have been hitherto set apart for the burial of persons other than Muhammadans.

Local Government may place other public Muhammadan burial-grounds under superintendence, management or control of Board.

7. The Local Government may, by an order published in the Calcutta Gazette, from time to time place any other public Muhammadan burial-ground in Calcutta or its vicinity under the superintendence, management or control of the Board.

Provision for making over private burial-grounds to charge of Board.

8. The superintendence, management or control of any Muhammadan burial-ground situate in, or in the vicinity of, Calcutta may, with the sanction of the Local Government, be transferred by the owner or custodian thereof to the Board upon such terms as may be arranged between the Board and such owner or custodian.

(*2*) And such burial-ground shall thereupon be managed in all respects as a public Muhammadan burial-ground subject to the provisions of this Act.

Power in Board to create new burial-grounds or extend those already in existence by purchase of land.

9. The Board may, with the sanction of the Local Government, purchase any land in, or in the vicinity of, Calcutta, whether previously used as a burial-ground or not, with the object of extending any public burial-ground under its charge or of forming a new public burial-ground.

Power to withdraw burial-grounds from superintendence, management or control of Board.

10. The Local Government may, in its discretion at any time, withdraw any burial-ground from the superintendence, management or control of the Board.

Board to receive and account for fees and grants.

11. The Board shall receive all fees and other moneys paid or given in respect of the use of such burial-grounds, the digging of graves and the erection of monuments therein, and such grants as the Local Government may, from time to time, place at their disposal; and shall pay thereout all charges and expenses incurred by them in the management and superintendence of the same, and shall submit accounts of such receipts and expenditure once in every year to the Local Government in such form and manner as the Local Government may direct.

Board may appoint subordinate establishment.

12. The Board may, from time to time, appoint all such overseers, clerks, subordinate officers and servants as they shall think necessary and proper to assist in carrying out the purposes of this Act; and may, from time to time, remove any of such persons and appoint others in their place.

Power to make rules.

13. The Board may, with the sanction of the Local Government, from time to time make such rules consistent with the purposes of this Act as they think necessary for any of the following purposes; that is to say—

(*a*) for regulating the times when the Board shall meet, and the procedure to be observed at their meetings;

(*b*) for the preservation, repair, and when necessary the removal, of existing monuments, and for regulating the dimensions of new monuments in any burial-ground under their charge;

(*c*) for regulating the scale and mode of payment of fees, charges and other dues in respect of interments in any burial-ground, and for the expenditure of the same;

(*d*) for directing the manner in which, and the persons by whom, all works within any such burial-ground shall be executed; and

(*e*) for otherwise carrying out the purposes of this Act.

(*2*) And may, from time to time, with the sanction aforesaid, vary, alter or revoke any such rules so made.

(*3*) All rules so made, and variations, alterations or revocations of rules, shall be published in the Calcutta Gazette.

Power to provide for control of

14. The Local Government may constitute the three members of the Board enumerated in section 4 a Board for the superintendence, management

or control of public burial-grounds used for the interment of persons other than Christians or Muhammadans, and may place under the Board the Chota Gobra Gorastan specified in the Second Schedule as well as such portions of public Muhammadan burial-grounds as may be excluded from the control of the Muhammadan Burial Board under section 6, and any other similar burial-grounds which the Local Government may from time to time think it expedient to place under the Board, and the Board so constituted shall exercise the same powers with regard to such burial-grounds as are vested in the Muhammadan Burial Board by sections 11, 12 and 13 of this Act.

burial-grounds used by other than Christians or Muhammadans.

THE FIRST SCHEDULE.

(*See section 6.*)

SCHEDULE OF PUBLIC MUHAMMADAN BURIAL-GROUNDS PLACED UNDER SUPERINTENDENCE, MANAGEMENT, OR CONTROL OF BOARD.

(1) Chopdar Bagan burial-ground, No. 54, Upper Circular Road, and Nos. 26 and 27, Manicktollah. Area of public portion, 3 bighas, 12 cottahs, 3 chittacks, more or less.

(2) Meah Bagan burial-ground, Nos. 52 and 53, Manicktollah. Area of public portion, 3 bighas, 1 cottah, 7 chittacks, more or less.

(3) Khodadad's burial-ground, No. 15, Moonsheepara Lane. Area, 4 bighas, 18 cottahs, 7 chittacks, more or less.

(4) Rahim-ud-deen Moonshee's burial-ground, No. 20, Canal Road, West. Area, 5 bighas, 16 cottahs, 7 chittacks, more or less.

(5) Gobra Gorastan, No. 1 Gobra Road. Area, 6 bighas, more or less.

(6) Talbagan burial-ground, No. 6, Tiljullah, 1st Lane. Area, 10 bighas, 11 cottahs, more or less.

(7) Talbagan Khoyiatee Gorastan, No. 7, Tiljullah, 1st Lane. Area, more or less, 1 bigha, 3 cottahs.

(8) New Kasiabagan burial-ground, Tiljullah, 1st Lane. Area of Muhammadan portion 12 bighas, more or less.

(9) Sola-anna Kobrastan, No. 70, Ekbalpore Road. Area, 17 bighas, 18 cottahs, more or less.

(10) Moonshee Ahmud Begg Ke Kobrastan, Halsu Taloa, Ramnugger Lane. Area, 4 bighas, more or less.

THE SECOND SCHEDULE.

(*See section 14.*)

CHOTA GOBRA GORASTAN PLACED UNDER SUPERINTENDENCE, MANAGEMENT, OR CONTROL OF BOARD CONSTITUTED UNDER SECTION 14.

Chota Gobra Gorastan, Nos. 11 and 13, Gobra Gorastan Road. Area, 2 bighas, 5 cottahs, more or less.

APPENDIX.

LISTS OF PLACES IN BENGAL IN WHICH CERTAIN OF THE ACTS OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL HAVE BEEN BROUGHT INTO FORCE.

List of channels to which Bengal Act V of 1864 (Canals) has been applied under section 2.

Channels.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.
Orissa Canals.		
Kendrapara canal	18th October, 1866.	1866, Part I, p. 1817.
First section of the High Level canal . .		
Second reach of the High Level canal . .	12th December, 1871.	1871, Part I, p. 2083.
First reach of the Taldunda canal . .	1st April, 1870 .	1870, Part I, p. 851.
Second and third reaches of the Taldunda canal.	12th December, 1871.	1871, Part I, p. 2083.
Gobree extension canal	6th July, 1885 .	1885, Part I, p. 667.
Jajepore canal	14th August, 1888 .	1888, Part I, p. 734.
Midnapore Canals.		
Midnapore canal	19th April, 1865 .	1865, Part I, p. 776.
Naraingbûr distributary channel . .	13th May, 1879 .	1879, Part I, p. 470.
Hidjelee Tidal and Orissa Coast Canals.		
Khal leading to Gewankhali Lock entrance from the Hooghly river. Hidjelee Tidal Canal, Range I, from Gewankhali to Etamugra lock. Huldee river, from Etamugra to Terapakea locks. Hidjelee Tidal Canal, Range II, from Terapakea to Kalinuggur lock. Russulpore river, from Kalinuggur to Surpai. Orissa Coast Canal, Range III, from Bhaitghur to Bhograi lock. Suburnrekha river, from Bhograi to Jamcoonda locks.	24th April, 1888 .	1888, Part I, p. 343.

List of channels to which Bengal Act V of 1864 (Canals) has been applied under section 2—continued.

Channels.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.
Hidjellee Tidal and Orissa Coast Canals—contd.		
Orissa Coast Canal, Range IVA, from Jamcoonda to Panchpara locks. Panchpara river, from Panchpara to Soolputta locks. Orissa Coast Canal, Range V, from Chargachia to Charbatia locks. Orissa Coast Canal, Range IVB, from Soolputta to Nulcool locks. Burrabullong river, from Nulcool to Chargachia locks. Metai river, from Charbatia to its junction with the Dhamra.	24th April, 1888 .	1888, Part I, p. 343.
Sone Canals.		
Main Western canal, first section . . Arrah canal . . . . . . Main Eastern canal, first section . . Patna canal	21st February, 1876	1876, Part I, pp. 190-91.
Buxar canal	14th June, 1880 .	1880, Part I, p. 491.
Calcutta Canals and Tolly's Nullah.		
The Circular Canal, comprising the whole of the still-water canals between the Dhappa and Chitpore locks, together with its junction with the River Hooghly and the Orange Soorah at Dhappa. The Central Lake channel, from its junction with the Calcutta canal at the Dhappa lock to its junction with the Biddiadharee at Bamunghatta. Nowbhangha khal, extending northwards for a mile from its junction with the Central Lake channel below the Dhappa lock. The Soora, from its junction with the Central Lake channel below the Dhappa lock, and extending to the fish market situated adjacent to, and to the west of, the Dhappa Inspector's residence. Tolly's Nullah, extending from its junction with the River Hooghly at Kidderpore to the Biddiadharee river at Samookpotta. Biddiadharee river, from Bamunghatta to Samookpotta.	23rd March, 1886 .	1886, Part I, p. 285.
The Kawora Pooker khal, between Russa on Tolly's Nullah and Mugra Hat Bazar.	30th April, 1889 .	1889, Part I, p. 372.
Nuddea Rivers.		
River Bhagirathee, throughout its whole course from the Ganges to Nudden, or to its junction with the Hooghly.	18th June, 1879 .	1879, Part I, p. 565.

***List of channels to which Bengal Act V of 1864 (Canals) has been applied under section 2*—concluded.**

Channels.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.
***Nuddea Rivers*—contd.**		
River Hooghly, from Nuddea to its junction with the River Matabhanga. River Jelinghee, from the Ganges to Nuddea. River Bhoyrub, from the Ganges to Jelinghee. River Matabhanga, from the Ganges to its junction with the Hooghly. Such portions of the River Ganges as may be within five miles of the entrance for the time being of the Bhagiruthee, the Bhoyrub, the Jelinghee and the Matabhanga rivers, respectively.	18th June, 1879	1879, Part I, p. 565.
Eastern Canals.		
Bhoyrub river, between Singhia and Basundia	22nd September, 1885	1885, Part I, p. 910.
The undermentioned navigable channels from Kuntatulla to Burrisal, known as the "Eastern Canal Route[a]" and "Outer Boat Route[b]", and the undermentioned rivers and creeks known as the "Steamer Route[c]" through the Sunderbuns between the Baratullah channel to the east of Saugur Island and Burrisal.	12th August, 1884. 17th September, 1889	1884, Part I, p 853. 1889, Part I, p. 785.

[a] "*Eastern Canal route*," extending—
over the line of channels from Kuntatulla eastward to Hossunabad, thence by the Jaboona or Echamut river to Basuntpore, also the lines of channels through Cozali khal, cut No 1, Goothiakhali river up to its junction with the Moruchap river at Assasonee, then by the Moruchap river to its junction with the Cobaduck:
along the Cobaduck to Leonardgunge, thence by cut No. 2 to the Aga Supsah to Soladanah, thence by the Dilootigong river up to its junction with the Bhudder river, then by the Bhudder river up the Sourkhali katta khal and Bytaghatto khal to the Kajee-batcha, then by the Roopsha river up to Khoolna, and northwards along the Bhoyrub river to a line drawn from the village of Bhungapara on the right bank to the village of Solepore on the left bank, returning to the junction of these rivers, and along the Bhoyrub nuddee to Cachoua, the point of junction with the Balessur river:
from Cachoua by the Balessur river to Perozepore, thence by the Damooda river to its junction with the Kocha river:
across the Kocha river and along the Cowkhally khal to Cowkhally, thence by the Jhalokati Baranee khal and the Srijoog khal up to and through the new cut near Jhalokati:
from Jhalokati to Burrisal by the Nulchiti and Burrisal rivers.

[b] "*Outer boat routes*," extending—
over Biddiadharee river from Samookpotta to the Mutla river along the Attarabanka and Burrakalagatchya river to its junction with the Roymungul, thence by Burrakalagatchya khal up to Bussuntpore, where it meets the Eastern Canal route:
over Banstolla khal from Goviudkattee, the point of junction with the Eastern Canal route, along the Goolyoosea river up to its junction with the Culpottoon river, thence by the Culpottoon river to a little to the east of Assasonee, where it joins the Eastern Canal route:
over the Cobaduck river from Hassimpore, the point of junction with the Eastern Canal route, by the Menus river up to Koochees village, then by the Seepsa river from Koochea to the junction of the Seepsa river with the Dhokee river, along the Dhokee river to its junction with the Choonapoorce khal, up the Choonapooree khal to the junction with the Pussur river, then by the Kajeebatcha river up to Jubua, the point of junction of the Kajeebatcha with the Roopsa river.

[c] "*Steamer route*, extending—
over Baratulla river or Channel Creek, Doosgra Hitalya Doanya, Sutteemookey river, Barchurra nuddee, Catcheera, Noukeheeroll, Pookeheera Jumera river, Seerfulla, Kaikalmaree, Mutla river, Bidda river, Gomestore khal, Guasuboy river, Teara Banka, Hariabunga river, Soya river, Bhureekee, Roymungul river, Attarabanka, Jaboona river, Mollinchur river, Uralee Banka, Culputtoon river, Cob khal, Shakhbaria river, Bojbuja, Oura Seepsa river, Seepsa river, Arparigosea river, Pasur River, Chachimgunge, Chilla, Chandpee, Bhola river, Manickhola river, Ghoseekhallee nuddee, Jubdhatta nuddee, Baloochoonia nuddee, Hooringottah river, Balessur river, Charakhalee khal, Kocha river, Kowkhalee river, Satora nuddee, Jungalea river, Dhansiddi river, Bishkhallee river, Jhallokatta cut, Nulchiti river, Burrisal river.

List of places to which Bengal Act VII of 1865 (Slaughter-houses) has been extended under section 9.

Places.	Extent to which extended.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date appointed by the notification for the Act taking effect.
Towns of Chinsurah and Hooghly	The whole Act.	4th May, 1865.	1865, p. 874	...
Town of Bhagulpore	Sections 1, 2, 5, 6, 7 and 8.	9th June, 1871.	1871, Part I, p. 1218.	1st July, 1871.
Town of Monghyr	Ditto	21st July, 1871.	1871, Part I, p. 1458.	1st August, 1871.
Muzufferpore Municipality	The whole Act.	5th July, 1880.	1880, Part I, p. 563.	1st August, 1880.
Patna Municipality	Ditto	26th March, 1889.	1889, Part IB, p. 75.	...

List of places to which Bengal Act V of 1866 (Hackney-carriages) has been extended under section 54.

Places.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date appointed by the notification for the Act taking effect.
Town of Howrah	30th April, 1866.	1866, p. 1044	...
Town of Monghyr	15th June, 1867.	1867, p. 1070	1st July, 1867.
Town and Suburbs of Chinsurah, Hooghly and Serampore (within municipal limits).	3rd December, 1868.	1868, p. 2042	1st January, 1869.
Cantonment of Barrackpore	25th March, 1869.	1869, p. 787	Ditto.
Town of Burdwan (within municipal limits)	23rd June, 1870.	1870, p. 1292	1st July, 1870.
Town of Soory (within municipal limits), and the railway feeders connecting it with Cynthea and Ahmedpore, in the district of Beerbhoom.	8th December, 1871.	1871, Part I, p. 2080.	1st January, 1872.
Town of Bydabatty (within municipal limits), in the district of Hooghly.	15th January, 1877.	1877, Part I, p. 101.	1st February, 1877.
Cantonment of Dinapore	16th August, 1877.	1877, Part I, p. 1047.	1st October, 1877.
Town of Utterpara (within municipal limits), in the district of Hooghly	22nd October, 1878.	1878, Part I, p. 1145.	1st December, 1878.

List of places to which Bengal Act V of 1866 (Hackney-carriages) has been extended under section 54—concluded.

Places.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date appointed by the notification for the Act taking effect.
Town of Barripore (within municipal limits), in the district of the 24-Pergunnahs.	30th September, 1879.	1879, Part I, p. 984.	1st January, 1880.
Town of Rajpore (within municipal limits), in the district of the 24-Pergunnahs.	24th April, 1880	1880, Part I, p. 318.	1st July, 1880.
Town of Bhuddessur (within municipal limits), in the district of Hooghly.	18th August, 1880.	1880, Part I, p. 752.	1st October, 1880.
Krishnaghur Municipality, and the road from Krishnaghur to Bugoola, and from Krishnaghur to Santipore up to the limits of the Santipore Municipality. Santipore Municipality, in the district of Nuddea, and the road from Ranaghat to Santipore. Ranaghat Municipality, in the district of Nuddea.	11th September, 1880.	1880, Part I, p. 831.	Ditto.
Dum-Dum Cantonment, and that portion of the Calcutta and Jessore Road which lies between the said cantonment and the town of Calcutta in the district of the 24-Pergunnahs.	2nd December, 1880.	1880, Part I, p. 1090.	1st January, 1881.
The portion of the Sonapore feeder road which lies between the Sonapore Railway Station and the limits of the Rajpore Municipality in the district of the 24-Pergunnahs.	5th February, 1881.	1881, Part I, p. 186.	1st April, 1881.
Patna Municipality	5th March, 1881.	1881, Part I, p. 281.	Ditto.
Municipality of Rampore Beauleah, in the district of Rajshahye.	28th July, 1881.	1881, Part I, p. 766.	1st April, 1882.
Gya Municipality	10th August, 1882.	1882, Part I, p. 720.	1st October, 1882.
South Suburban Municipality . . .	24th April, 1883.	1883, Part I, p. 357.	1st June, 1883.
Chittagong Municipality	7th November, 1883.	1883, Part I, p. 920.	1st January, 1884.
Mozufferpore Municipality	16th October, 1886.	1886, Part I B, p. 496.	1st January, 1887.
Berhampore Municipality	25th February, 1887.	1887, Part I B, p. 64.	1st April, 1887.
Nasirabad Municipality, in the district of Mymensingh.	9th September, 1888.	1888, Part I B, p. 393.	1st October, 1888.
Rungpore Municipality	14th May, 1889.	1889, Part I B, p. 111.	1st June, 1889.

List of places to which Bengal Act II of 1867 (Gambling) has been extended under section 2.

District.	Places.	Extent to which extended.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.
BACKERGUNGE	Town of Burrisal	Section 11	14th September, 1874.	1874, Part I, p. 1468.
	Villages of Banariparah, Changal Kanda, Kundihar, Machrang and Nazirpore, in the Perozepore subdivision.	Sections 11 to 15.	4th March, 1889.	1889, Part I, p. 165.
BANKOORA	Town of Bankoora	The whole Act.	13th September, 1872.	1872, Part I, p. 217.
	The lands comprising the mouzahs of Jamkundi, Kuparkhal, Nawoban and Telishair, in the outpost of Telishair, thana Bishenpore.	Ditto	1st April, 1878.	1878, Part I, p. 287.
	Thana Bankoora	Ditto	6th October, 1880.	1880, Part I, p. 912.
	The Mooroloo road, from Mejhea to Mooroloo, and the lands and villages within half a mile on each side.	Section 2	18th January, 1878.	1878, Part I, p. 60.
BEERBHOOM	Town and Municipality of Soory, in the Sudder Subdivision, and a space extending half a mile on either side of the public road leading from Soory to Cynthea Railway Station.	The whole Act.	4th December, 1878.	1878, Part I, p. 1322.
BHAGULPORE	Town of Bhagulpore	Ditto	13th May, 1872.	1872, p. 2343.
	Town of Colgong	Ditto	30th September, 1879.	1879, Part, I, p. 1014.
BOGRA	Towns of Bogra and Sherepore (within municipal limits).	Section 11	8th January, 1876.	1876, Part I, p. 33.
BURDWAN	Towns of Burdwan and Culna.	The whole Act.	13th May, 1872.	1872, p. 2343.
	Town of Raneegunge	Ditto	2nd February, 1876.	1876, Part I, p. 146.

List of places to which Bengal Act II of 1867 (Gambling) has been extended under section 2—continued.

District.	Places.	Extent to which extended.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.
BURDWAN —*contd.*	Villages of Balsi (with its putties in thana Indas), Hasipushkurini and Issorgoria, and the Union of Patrosgar in thana Shonamukhi.	The whole Act.	12th July, 1878.	1878, Part I, p. 803.
	Thana Ganguriya in the Sudder Subdivision of Burdwan.	Ditto	19th September, 1878.	1878, Part I, p. 1060.
	Municipality of Cutwa	Ditto	24th November, 1880.	1880, Part I, p. 1077.
CHITTAGONG	Subdivision of Cox's Bazar.	Ditto	13th May, 1872.	1872, p. 2343.
CHUMPARUN	Town of Bettiah	Ditto	28th January, 1881.	1881, Part I, p. 175.
	Town of Motihari	Ditto	16th March, 1885.	1885, Part I, p. 227.
CUTTACK	Town of Cuttack	Ditto	13th May, 1872.	1872, p. 2343.
	Town of Jajepore	Ditto	22nd November 1886.	1886, Part I, p. 1214.
DACCA	City of Dacca	Ditto	13th May, 1872.	1872, p. 2343.
	Sixteen villages opposite Dacca on the south side of the River Boorigunga, in outpost Keranigunj, thana Lallbagh.	Ditto	2nd September, 1872.	1872, Part I, p. 180.
	Town of Naraingunge	Section 11	21st June, 1877.	1877, Part I, p. 747.
	Ten villages in thana Keranigunj.	Sections 11 to 15.	23rd July, 1885.	1885, Part I, p. 774.
DINAGEPORE	Town of Dinagepore	The whole Act.	13th May, 1872.	1872, p. 2343.
DURBHUNGA	Municipality of Durbhunga	Ditto	12th September, 1877.	1877, Part I, p. 1400.
	Town of Samastipore, comprising the villages of Bahadurpore, Magardahi and Samastipore.	Ditto	25th March, 1880.	1880, Part I, p. 251.

List of places to which Bengal Act II of 1867 (Gambling) has been extended under section 2—continued.

District.	Places.	Extent to which extended.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.
DURBHUNGA—*contd.*	Town of Roserah	The whole Act.	29th December, 1882.	1883, Part I, p. 26.
	Town of Madhubani (within municipal limits).	Ditto	3rd December, 1888.	1888, Part I, p. 1034.
FURREEDPORE	Village of Boalmari, in Bhusna.	The whole Act, except section 11.	4th September, 1888.	1888, Part I, p. 780.
GYA	Towns of Aurungabad, Doodnuggore, Gya and Tikaree.	The whole Act.	13th May, 1872.	1872, p. 2343.
	Union of Jehanabad	Ditto	8th April, 1878.	1878, Part I, p. 304.
HAZÁRIBÁGH	Town of Hazáribágh	Ditto	13th May, 1872.	1872, p. 2343.
	The area comprising the villages of police-stations Kharakdiha and Dhanwar.	Ditto	22nd November, 1888.	1888, Part I, p. 1001.
	Town of Giridih	Sections 11 to 15.	24th February, 1886.	1886, Part I, p. 148.
	Town of Chatra	Ditto	16th July, 1886.	1866, Part I, p. 862.
HOOGHLY	Town of Kotrung	The whole Act.	17th April, 1877.	1877, Part I, p. 534.
	Municipalities of Bansberiah, Bhuddessur, Bydabatty and Kotrung.	Ditto	1st October, 1889.	1889, Part I, p. 832.
	Towns of Chinsurah, Hooghly and Serampore.	Section 11	13th May, 1872.	1872, p. 2343.
	Certain roads, towns and villages of the Serampore Sub-district.	Ditto	26th August, 1873.	1873, Part I, p. 1016.
HOWRAH	Thana of Domejur	The whole Act.	18th May, 1889.	1889, Part I, p. 452.
JALPÁIGURI	Town of Jalpáiguri	Ditto	22nd March, 1879.	1879, Part I, p. 267.

List of places to which Bengal Act II of 1867 (Gambling) has been extended under section 2—continued.

District.	Places.	Extent to which extended.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.
JALPÁIGURI—*contd.*	Certain places within the jurisdiction of the police outposts of Nagrakata and Titalyah and the police stations of Bodo, Damdim and Mynagoree.	The whole Act.	23rd September, 1889.	1889, Part I, p. 809.
JESSORE . .	Town of Jessore . .	Ditto .	13th May, 1872.	1872, p. 2343.
KHOOLNA .	Sen's Bazar, and the Bazars of Bagirhat, Khoolna and Satkhira . .	Sections 11 to 15.	15th December, 1886.	1886, Part I, p. 1327.
LOHARDUGGA .	Town of Ranchi . .	The whole Act, except section 11.	24th October, 1879.	1879, Part I, p. 1108.
	Ditto . .	Section 11 .	13th January, 1881.	1881, Part I, p. 111.
	Towns of Chainpore, Daltongunge and Shahpore.	The whole Act.	Ditto .	1881, Part I, p. 110.
	Town of Silli . .	Ditto .	22nd May, 1883.	1883, Part I, p. 467.
	Town of Lohardugga .	Ditto .	29th July, 1884.	1884, Part I, p. 830.
	Town of Gurwah, in the Palamow Subdivision.	Sections 11 to 15.	4th January, 1886.	1886, Part I, p. 9.
MALDA . .	Towns of English Bazar and Malda.	The whole Act.	13th May, 1872.	1872, p. 2343.
	Municipalities of English Bazar and Malda.	Ditto .	31st March, 1884.	1884, Part I, p. 499.
	Amanigunge Hât, Babus Hât, Bholahat Hât (Soto), Butbulchande Hât, Rajmehal (roadside from the Civil station of Malda to Baghari Bridge, third mile), Sadullapur Hât, and Satpur Hât.	Sections 11 to 15.	Ditto .	Ditto.
MANBHOOM .	Town of Purulia . .	The whole Act.	13th May, 1872.	1872, p. 2343.
	Town of Rugoonathpore .	Ditto .	25th February, 1873.	1873, Part I, p. 324.

List of places to which Bengal Act II of 1867 (Gambling) has been extended under section 2—continued.

District.	Places.	Extent to which extended.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.
MANBHOOM—*contd.*	Village of Joypore	The whole Act.	22nd January, 1883.	1883, Part I, p. 118.
	Town of Barra bazar	Ditto	11th May, 1889.	1889, Part I, p. 415.
	Union of Jhalda	Section 11	17th May, 1875.	1875, Part I, p. 638.
MIDNAPORE	Town of Midnapore	The whole Act, except sections 7 and 11.	16th February, 1874.	1874, Part I p. 471.
		Section 11	25th January. 1875.	1875, Part I, p. 154.
	Rathgora bazar, in Mysadul.	The whole Act.	5th January, 1877.	1877, Part I, p. 47.
	Tracts of country extending 150 feet on either side of each of the roads from the town of Bankoora to the town of Midnapore, from Calcutta to Midnapore and from Midnapore to Cuttack.	Section 11	20th March, 1877.	1877, Part I, p. 390.
MONGHYR	Towns of Jamalpore and Monghyr.	The whole Act.	13th May, 1872.	1872, p. 2343.
	The three villages in the Surujghura police-station, and the one village comprising its four tolas in the Lukhiserai outpost.	Sections 11 to 15.	22nd September, 1884.	1884, Part I, p. 1021.
MOORSHEDABAD	Towns of Azimgunge, Baighattah, Baloochur, Berhampore, Jungypore and Moorshedabad.	The whole Act.	9th October, 1874.	1874, Part I, p. 1596.
	Town of Pachthupee, Municipality of Kandi and villages of Hurish Chunderpore and Muniadihi.	Ditto	14th May, 1880.	1880, Part I, p. 390.
MOZUFFERPORE	Town of Seetamurhee (within municipal limits).	Ditto	21st May, 1883.	1883, Part I, p. 440.
	Town of Mozufferpore (within municipal limits).	Ditto	17th September, 1883.	1883, Part I, p. 795.

List of places to which Bengal Act II of 1867 (Gambling) has been extended under section 2—continued.

District.	Places.	Extent to which extended.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.
MOZUFFERPORE —*contd.*	Town of Hajeepore (within municipal limits).	The whole Act.	29th May, 1885.	1885, Part I, p. 533.
	Town of Lallgunge (within municipal limits).	Sections 11 to 15.	6th April, 1886.	1886, Part I, p. 414.
MYMENSINGH	Mymensingh road, from the northern municipal limits of the town of Dacca as far as the Lal Koti, a distance of about 2 miles.	Section 11	4th June, 1877.	1877, Part I, p. 683.
NUDDEA	Towns of Kooshtea, Krishnaghur, Ranaghat and Santipore.	The whole Act.	13th May, 1872.	1872, p. 2343.
	Town of Comercolly	Ditto	16th August, 1872.	1872, Part I, p. 146.
	The following villages in the subdivision of Bongong, namely,— Bongong (including Bazar and Matiagunge), Chhagharia, Garapota (including Kundipore and Kamalpore), Gopalnagur (including Khamarkalna and Jaliapara) and Moheshpore (including Jalilpore and Hamidpore).	Section 11	3rd May, 1875.	1875, Part I, p. 542.
PATNA	Town of Barh, City of Patna and its suburb town of Behar, Dinapore Nizamut, Dinapore Nizamut Chowkidaree Union (consisting of fourteen villages and mohullahs), and nine villages which line the road between Patna and Dinapore.	The whole Act.	13th May, 1872.	1872, p. 2343.
	Union of Khagowl	Ditto	11th July, 1872.	1872, Part I, p. 64.
	The road lying between the Patna Municipality and the Dinapore Cantonment.	Ditto	22nd November, 1888.	1888, Part I p. 1000.

List of places to which Bengal Act II of 1867 (Gambling) has been extended under section 2—continued.

District.	Places.	Extent to which extended.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.
POOREE	Town of Pooree	The whole Act.	14th August, 1873.	1873, Part I, p. 979.
PUBNA	Town of Serajgunge	Ditto	1st February, 1873.	1873, Part I, p 201.
	Town of Pubna	Section 11	11th June, 1874.	1874, Part I, p. 1000.
PURNEAH	Town of Purneah	The whole Act.	13th May, 1872.	1872, p. 2343.
	Town of Kusba	Sections 11 to 15.	11th April, 1885.	1885, Part I, p. 309.
RUNGPORE	Municipality of Rungpore	The whole Act.	5th May, 1884.	1884, Part I, p. 626.
SARUN	Town of Chupra	Ditto	13th May, 1872	1872, p. 2343.
	Town of Revilgunge	Ditto	6th December, 1880.	1880, Part I, p. 1098.
	Police-station of Sonepore	Ditto	11th May, 1886.	1886, Part I, p. 553.
	Municipality of Sewan	Ditto	14th June, 1886.	1886, Part I, p. 760.
SHAHABAD	Town of Arrah	Ditto	13th May, 1872.	1872, p. 2343.
	Union of Bhogepore and Municipality of Doomraon.	Ditto	24th April, 1877.	1877, Part I, p. 535.
	Town of Sasseram	Ditto	30th November, 1878.	1878, Part I, p. 1284.
	Town of Buxar	Sections 11 to 15.	23rd August, 1886.	1886, Part I, p. 949.
SINGBHOOM	Town of Chaibassa	The whole Act.	12th February, 1889.	1889, Part I, p. 111.
SONTHAL PERGUNNAHS.	Towns of Burheit, Deoghur, Nalla, Rohnee, Saruth and Sahibgunge.	Ditto	13th May, 1872.	1872, p. 2343.
	Town of Rajmahal and its vicinity.	Ditto	Ditto	Ditto.

List of places to which Bengal Act II of 1867 (Gambling) has been extended under section 2—concluded.

District.	Places.	Extent to which extended.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.
24-PERGUNNAHS.	Unions of Augurparah and Nawabgunge. Municipal Unions of Busseerhat, Colingah, Goburdangah and Taki. Town of Naihati . Fifteen villages within the jurisdiction of the police outposts of Burtolah and Mateeaborooz.	The whole Act.	13th May, 1872.	1872, p. 2343.
	Municipality of Rajpore .	Ditto .	4th September, 1878.	1878, Part I, p. 997.
	Villages of Belgachia, Ghooghoodanga, Kamardanga and Nagarbazar, in the South Dum-Dum Municipality; villages of Itenda and Bagjollahat, in thanas Bassirhat and Badurea, respectively; Municipality of North Dum-Dum; thana Baranagore; and the outposts of Behalla, Mateeaborooz and Shahapore, in thana Tallygunge.	Ditto .	30th November, 1889.	1889, Part I, p. 992.
	Towns of Bagjullah (consisting of six villages), Baraset, Barripore (consisting of specified villages, with limitations), Kadihabi (consisting of four villages), and Satkhira, the North Suburban Town (comprising ten villages), and portion of the South Suburban Town, consisting of thirty-four villages.	Section 11 .	10th November, 1874.	1874, Part I, p. 1661.
	Certain roads, hâts and villages of the Diamond Harbour Subdivision.	Ditto .	7th March, 1883.	1883, Part I, p. 230.
	Khaspur Fair and Kadamgachihat, in thana Baraset; and Kamdebporehat and Soragachihat, in thana Naihati.	Sections 11 to 14.	30th November, 1889.	1889, Part I, p. 991.

List of places to which Bengal Acts I and III of 1869 (Cruelty to Animals) have been extended under sections 10 and 3, respectively.

Ben. Act.	Places.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.
I	Town of Kooshtea, Sudder Subdivision of the district of Nuddea, and Subdivision of Ranaghat.	8th May, 1869.	1869, p. 1058.
III	Ditto ditto ditto .	6th October, 1869.	1869, p. 1874.
I	Towns of Chinsurah and Hooghly	19th January, 1871.	1871, Part I, p. 219.
I	Eighty-one villages between Carsgola and Titalyah, traversed by the Ganges and Darjeeling Road.	19th January, 1875.	1875, Part I, p. 166.
I	Forty-five villages through which the Ganges and Darjeeling Road passes from Titalyah to the border of the Darjeeling District.	26th December, 1875.	1875, Part I, p. 1565.
I	The whole of the Darjeeling District	6th May, 1876.	1876, Part I, p. 463.
III	Ditto ditto	6th December, 1876.	1876, Part I, p. 1491.
I & III	Town of Burdwan	19th December, 1876.	1876, Part I, p. 1546.
I & III	North Suburban Town, in the district of the 24-Pergunnahs.	19th January, 1877.	1877, Part I, p. 120.
I & III	Town of Patna	13th March, 1878.	1878, Part I, p. 209.
I & III	Town of Howrah	3rd April, 1879.	1879, Part I, p. 331.
I & III	The portion of the district of Rajshahye which lies within the limits of the Beauleah Municipality.	9th December, 1879.	1879, Part I, p. 1265.
I & III	The undermentioned places in the district of Pubna:— Bara Koyra. Baruea. Chak Koyra. Chandal Bayra. Char Chaudari. Dagachi. Kalipore. Kawa Kala. Koyra. Mirzapore. Mohish Kangla. Shoya. Sota Koyra.	7th June, 1880.	1880, Part I, p. 467.
I & III	Municipality of the town of Dacca, and town of Narainganje (within municipal limits).	8th January, 1884.	1884, Part I, p. 182.
I & III	The limits and boundaries of the Port Commissioners on the Howrah side of the River Hooghly.	8th May, 1884.	1884, Part I, p. 627.
I & III	The limits of the Bhaddessur Municipality, in the district of Hooghly.	3rd July, 1884.	1884, Part I, p. 763.

List of places to which Bengal Acts I and III of 1869 (Cruelty to Animals) have been extended under sections 10 and 3, respectively—concluded.

Ben. Act.	Places.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.
I & III	Town of Bally	27th August, 1884.	1884, Part I, p. 916.
I & III	The Municipalities of Bydabatty, Kotrung, Serampore and Utterpara, in the district of Hooghly.	20th May, 1886.	1886, Part I, p. 607.
I & III	Town of Nasirabad, in the district of Mymensingh .	23rd June, 1886.	1886, Part I, p. 786.
I & III	Town of Cuttack	20th October, 1886.	1886, Part I, p. 1149.
I & III	The undermentioned Municipalities in the district of the 24-Pergunnahs :— Baduria. Baraset. North Barrackpore. South ditto. Baranagore. Barripore. Basseerhat. North Dum-Dum. South ditto. Goburdanga. Joynuggur. Naihati. Rajpore. South Suburban. Taki.	22nd December, 1888.	1888, Part I, p. 1105.
I & III	Town of Durbhunga	4th May, 1889.	1889, Part I, p. 395.

List of places to which Bengal Act VI of 1870 (Village-chaukidars) has been extended under section 68.

Division.	Districts.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date appointed by the notification for the Act taking effect.
BHAGULPORE . .	Bhagulpore .	23rd February, 1871.	1871, Part I, p. 457 .	1st April, 1871.
	Maldah . .	23rd March, 1875.	1875, Part I, p. 355 .	1st April, 1875.
	Monghyr .	1st July, 1875.	1875, Part I, p. 846 .	1st October, 1875.
	Purneah .			
BURDWAN . . .	Bankoora .	28th August, 1876.	1876, Part I, p. 1108	1st October, 1876.
	Beerbhoom .	23rd February, 1871.	1871, Part I, p. 457 .	1st April, 1871.

***List of places to which Bengal Act VI of 1870 (Village-chaukidars) has been extended under section 68*—continued.**

Division.	Districts.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date appointed by the notification for the Act taking effect.
BURDWAN—*contd.*	Burdwan	21st March, 1876.	1876, Part I, p. 276	1st April, 1876.
	Hooghly	5th March, 1877.	1877, Part I, p. 333	1st April, 1877.
	Howrah	16th September, 1877.	1877, Part I, p. 1400	1st October, 1877.
	Midnapore	5th June, 1876.	1876, Part I, p. 650	1st July, 1876.
CHITTAGONG	Chittagong	23rd February 1871.	1871, Part I, p. 457	1st April, 1871.
	Noakholly	2nd March, 1876.	1876, Part I, p. 238	1st April, 1876.
	Tipperah	30th November, 1875.	1875, Part I, p. 1490	1st January, 1876.
DACCA	Backergunge	18th June, 1875.	1875, Part I, p. 734	1st August, 1875.
	Dacca	23rd February, 1871.	1871, Part I, p. 457	1st April, 1871.
	Furreedpore	10th May, 1875.	1875, Part I, p. 734	1st July, 1875.
	Mymensingh	8th February, 1881.	1881, Part I, p. 205	1st April, 1881.
PATNA	Chumparun	29th June, 1875.	1875, Part I, p. 827	1st July, 1875.
	Durbhunga	7th June, 1875.	1875, Part I, p. 707	1st July, 1875.
	Gya Mozufferpore	29th June, 1875.	1875, Part I, p. 827	1st July, 1875.
	Patna	23rd February, 1871.	1871, Part I, p. 457	1st April, 1871.
		7th June, 1875.	1875, Part I, p. 707	1st July, 1875.

List of places to which Bengal Act VI of 1870 (Village-chaukidars) has been extended under section 68—concluded.

Division.	Districts.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date appointed by the notification for the Act taking effect.
PATNA—*contd.*	Sarun . .	7th June, 1875.	1875, Part I, p. 707 .	1st July, 1875.
	Shahabad .			
PRESIDENCY . . .	Jessore . .	23rd February, 1871.	1871, Part I, p. 457 .	1st April, 1871.
	Moorshedabad (the portion to the east of the Bhagiruthee river).	23rd March, 1875.	1875, Part I, p. 355 .	1st April, 1875.
	Moorshedabad (the portion to the west of the Bhagiruthee river).	10th June, 1876.	1876, Part I, p. 684 .	.....
	Nuddea . .	17th April, 1876.	1876, Part I, p. 396 .	1st June, 1876.
	24-Pergunnahs .	14th November, 1876.	1876, Part I, p. 1374	1st January, 1877.
RAJSHAHYE . . .	Bogra . .	23rd March, 1875.	1875, Part I, p. 355 .	1st April, 1875.
	Dinagepore .	16th July, 1878.	1878, Part I, p. 828 .	1st August, 1878.
	Jalpáiguri .	11th November, 1875.	1875, Part I, p. 1424	1st January, 1876.
	Pubna . .	23rd March, 1875.	1875, Part I, p. 355 .	1st April, 1875.
	Rajshahye .	23rd February 1871.	1871, Part I, p. 457 .	1st April, 1871.
	Rungpore .	11th August, 1875.	1875, Part I, p. 1092	1st September, 1875.

List of places to which Bengal Act IV of 1871 (Poorea Lodging-houses), as amended by Bengal Act II of 1879, has been extended under section 3 of the latter Act.

Places.	Extent to which extended.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.
Town of Gya, in the district of Gya	The whole Act.	16th April, 1879.	1879, Part I, p. 375.
Town of Deoghur, in the district of the Sonthal Pergunnahs.			
Uluberia, in the district of Howrah	Ditto .	25th May, 1882.	1882, Part I, p. 483.
Town of Raneegunge, in the district of Burdwan .	Ditto .	14th May, 1883.	1883, Part I, p. 414.
Towns of Gurbetta and Danton, in the district of Midnapore.			
Chandbally, in the district of Balasore . . .	Ditto .	24th April, 1888.	1888, Part IB, p. 184.
The following chattees on the Juggernath Road from Foolnakhara to Mulapal, in the district of Cuttack :—	Ditto .	9th November, 1888.	1888, Part IB, p. 44[illegible]
Baloogunj Bazar.			
Barchana.			
Chaudwar.			
Chantingunge.			
Chattia.			
Dhurmsala.			
Foolnakhara.			
Gopalpur.			
Jobra.			
Khanditar.			
Kuakhia.			
Kusunpur.			
Manipur.			
Mukasmur.			
Mulapal.			
Neulpur.			
Noya Bazar.			
Nuntikri.			
Nuntikri Nayabazar.			
Saheb Bazar.			
Sunduria Bazar.			
Tanghi.			
Telingapenth.			
Tentulapir.			
The places of pilgrimage known as Surja Kund, Labona Kund, Sita Kund and Barab Kund, and the lines of road leading to them.	Ditto .	28th November, 1888.	1888, Part IB, p. 455.
The bazars and chattees noted below, at present existing, and those that may hereafter be formed within ½ mile of the centre of the Orissa Trunk Road on both sides, in the district of Balasore :—	Ditto .	24th May, 1889.	1889, Part IB, p. 119.
Acquapada.			
Arar.			
Bahanga.			
Baharda or Busta.			
Balasore Nayabazar.			
Barikpur.			
Berhampur.			
Bhandaripukhar.			
Bhudrack.			
Bidu Bazar.			
Chandanyia.			
Chandna-bazar.			
Charampa.			
Chingripur.			
Dakhinpur or Palda.			
Dilial Sagar.			
Fulwar.			
Guilpur.			
Gurikhal.			
Haldipada.			
Jamjhari.			
Kapura.			
Khantapara.			
Markuna.			
Purnia.			
Rajghat.			
Ranitallow.			
Sheikh Sarai or Mahammadnagarpatna.			
Shergarh.			
Simulia.			
Talnagar.			
Turtia.			
Urungi.			
Uttersar or Sorah.			

List of places the Registration of Births and Deaths occurring in which has been directed under Bengal Act IV of 1873 (Registration of Births and Deaths), section 1.

District.	Places.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date from which the notification took effect.
	I.—Registration of Births and Deaths.			
BACKERGUNGE	Town of Burrisal	13th March, 1876.	1876, Part I, p. 292.	1st April, 1876.
BALASORE	Town of Balasore	30th August, 1876.	1876, Part I, p. 1121.	1st October, 1876.
BANKOORA	Towns of Bankoora and Bishenpore.	1st May, 1876.	1876, Part I, p. 448.	1st June, 1876.
	Municipality of Sonamukhy.	6th July, 1889.	1889, Part IB, p. 138.	1st August, 1889.
BEERBHOOM	Town of Soory	1st May, 1876.	1876, Part I, p. 448.	1st June, 1876.
BHAGULPORE	Town of Colgong	9th September, 1876.	1876, Part I, p. 1142.	1st October, 1876.
BURDWAN	Town of Culna	11th December, 1876.	1876, Part I, p. 1482.	1st January, 1877.
	Towns of Cutwa and Raneegunge.		1876, Part I, p. 1483.	
CHITTAGONG	Town of Cox's Bazar	5th January, 1876.	1876, Part I, p. 60.	1st February, 1876.
CHUMPARUN	Town of Motihari	3rd November, 1876.	1876, Part I, p. 1343.	1st December, 1876.
	Town of Bettiah	8th September, 1880.	1880, Part I, p. 831.	1st October, 1880.
CUTTACK	Town of Cuttack	7th October, 1876.	1876, Part I, p. 1268.	1st November, 1876.
DURBHUNGA	Town of Mudhubani	14th April, 1877.	1877, Part I, p. 506.	1st May, 1877.
FURREEDPORE	Town of Furreedpore	13th March, 1876.	1876, Part I, p. 292.	1st April, 1876.
	Municipality of Madaripore.	21st February, 1887.	1887, Part IB, p. 49.	1st April, 1887.
GYA	Chowkidaree Unions of Jehanabad and Nowada.	5th January, 1876.	1876, Part I, p. 60.	1st February, 1876.
	Chowkidaree Union of Aurungabad.	20th January, 1876.	1876, Part I, p. 81.	

List of places the Registration of Births and Deaths occurring in which has been directed under Bengal Act IV of 1873 (Registration of Births and Deaths), section 1—continued.

District.	Places.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date from which the notification took effect.
	I.—Registration of Births and Deaths—continued.			
HAZÁRIBÁGH	Municipality of Házaribágh.	3rd January, 1883.	1883, Part I, p. 20.	1st March, 1883.
	Municipality of Chatra.	30th June, 1885.	1885, Part I, p. 652.	1st August, 1885.
HOOGHLY	Towns of Bhuddressur, Bydabatty and Kotrung.	10th October, 1877.	1877, Part I, p. 1534.	1st December, 1877.
	Municipality of Jehanabad.	10th September, 1888.	1888, Part I, p. 832.	1st October, 1888.
JALPÁIGURI	Town of Jalpáiguri	25th March, 1876.	1876, Part I, p 291.	1st May, 1876.
JESSORE	Chowkidaree Union of Kotechandpore	27th November, 1876.	1876, Part I, p 1426.	1st January, 1877.
	Municipality of Jessore.	3rd September, 1887.	1887, Part I, p. 795.	.....
KHOOLNA	Municipality of Khoolna.	21st February, 1887.	1887, Part IB, p. 47.	1st April, 1887.
LOHARDUGGA	Municipality of Lohardugga.	9th November, 1889.	1889, Part IB, p. 238.	1st January, 1890.
MALDA	Towns of English Bazar and Malda.	25th March, 1876.	1876, Part I, p 291.	1st May, 1876.
MIDNAPORE	Towns of Ghatal and Tumlook.	11th December, 1876.	1876, Part I, p. 1483.	1st January, 1877.
	Municipalities of Chunderkona, Kheerpoy and Ramjeebunpore.	7th March, 1879.	1879, Part I, p. 215.	1st April, 1879.
	Municipality of Kharar.	16th August, 1889.	1889, Part I, p. 176.	.....
MONGHYR	Town of Jamalpore	2nd November, 1876.	1876, Part I, p. 1342.	1st December, 1876.
	Municipality of Jamui.	21st February, 1887.	1887, Part IB, p. 48.	1st April, 1887.

***List of places the Registration of Births and Deaths occurring in which has been directed under Bengal Act IV of 1873 (Registration of Births and Deaths), section 1*—continued.**

District.	Places.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date from which the notification took effect.
	***I.—Registration of Births and Deaths*—continued.**			
MOORSHEDABAD .	Townships of Berhampore, Jungypore and Lallbagh.	28th March, 1876.	1876, Part I, p. 292.	1st May, 1876.
	Town of Kandi .	27th November, 1876.	1876, Part I, p. 1427.	1st January, 1877.
MOZUFFERPORE .	Town of Hajeepore and Union of Seetamurhee.	7th October, 1876.	1876, Part I, p. 1268.	1st November, 1876.
MYMENSINGH .	Town of Nasirabad .	14th October, 1876.	1876, Part I, p. 1285.	1st November, 1876.
	Municipalities of Bazitpore, Jamalpore, Kishoregunge and Sherepore.	22nd January, 1878.	1878, Part I, p. 58.	15th February, 1878.
	Municipality of Tangail.	24th April, 1888.	1888, Part I, p. 340.	1st June, 1888.
	Municipality of Netrokona.	8th June, 1889.	1889, Part IB, p. 124.	1st July, 1889.
NUDDEA . .	Chooadangah Thanah.	18th July, 1876.	1876, Part I, p. 908.	1st September, 1876.
	Towns of Comercolly and Meherpore.	27th November, 1876.	1876, Part I, p. 1426.	1st January, 1877.
	Municipality of Chogdah.	28th January, 1887.	1887, Part IB, p. 21.	.....
PATNA . .	Towns of Barh and Behar.	5th January, 1876.	1876, Part I, p. 60.	1st February, 1876.
	Unions of Futwah Mokameh.	9th September, 1876.	1876, Part I, p. 1142.	1st October, 1876.
	Dinapore Cantonment.	28th November, 1876.	1876, Part I, p. 1483.	Ditto.
	Dinapore Nizamut .	Ditto .	1876, Part I, p. 1484.	Ditto.
POOREE . . .	Town of Poorce .	16th December, 1880.	1880, Part I, p. 1138.	1st January, 1881.

List of places the Registration of Births and Deaths occurring in which has been directed under Bengal Act IV of 1873 (Registration of Births and Deaths), section 1—continued.

District	Places	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date from which the notification took effect.
	I.—Registration of Births and Deaths—concluded.			
PUBNA . . .	Municipality of Pubna.	21st July, 1879.	1879, Part I, p 746.	1st September, 1879.
PURNEAH . .	Union of Kissengunge.	9th September, 1876.	1876, Part I, p. 1142.	1st October, 1876.
RAJSHAHYE . .	Towns of Rampore Beauleah and Nattore.	25th March, 1876.	1876, Part I, p. 291.	1st May, 1876.
RUNGPORE . .	Town of Rungpore .	Ditto .	Ditto . .	Ditto.
SARUN . . .	Towns of Sewan and Revilgunge.	12th November, 1875.	1875, Part I, p. 1418.	1st January, 1876.
SHAHABAD . .	Town of Buxar .	4th April, 1876.	1876, Part I, p. 372.	1st May, 1876.
	Municipality of Bhuboorah.	23rd March, 1888.	1888, Part I, p. 238.	1st May, 1888.
SONTHAL PERGUNNAHS.	Municipality of Deoghur.	26th June, 1879.	1879, Part I, p. 628.	1st August, 1879.
TIPPERAH . .	Town of Bramunbariah.	3rd September, 1875.	1875, Part I, p. 1123.	1st January, 1876.
24-PERGUNNAHS .	Townships of Augurpara, Bagjuliah, Kadihatty and Nowabgunge and North Suburban Town.	25th March, 1876.	1876, Part I, p. 292.	1st May, 1876.
	Cantonments of Barrackpore and Dum-Dum.	7th August, 1876.	1876, Part I, p. 954.	1st September, 1876.
	Municipality of Naihati	14th September, 1884.	1884, Part I, p. 979.	1st October, 1884.
	Municipality of Baraset.	21st February, 1887.	1887, Part III, p. 49.	1st April, 1887.
	Suburban Municipality.	3rd September, 1887.	1887, Part I, p. 795.	.....
	South Suburban Town	1st October, 1877.	1877, Part I, p. 1441.	1st November, 1877.

List of places the Registration of Births and Deaths occurring in which has been directed under Bengal Act IV of 1873 (Registration of Births and Deaths), section 1—continued.

District.	Places.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date from which the notification took effect.
	II.—Registration of Births.			
BOGRA	Municipalities of Bogra and Sherepore.	21st February, 1887.	1887, Part IB, p. 47.	1st October, 1887.
BURDWAN	Municipality of Dainhat.			
CUTTACK	Municipalities of Jajepore and Kendrapara.			
DINAGEPORE	Municipality of Dinagepore.			
HOOGHLY	Municipality of Bansberiah.	3rd August, 1884.	1884, Part I, p. 841.	1st September, 1884.
HOWRAH	Municipality of Bally.	21st February, 1887.	1887, Part IB, p. 47.	1st October, 1887.
JESSORE	Municipality of Moheshpore.			
KHOOLNA	Municipalities of Chundureah, Debhatta and Satkhira.			
LOHARDUGGA	Municipality of Ranchi.			
MANBHOOM	Municipality of Purulia.			
NUDDEA	Municipalities of Beernagore, Kooshtea and Nuddea.			
SONTHAL PERGUNNAHS.	Municipality of Sahibgunge.			
24-PERGUNNAHS	Municipalities of Baduria, Barripore, Busseerhat, Goberdanga, Joynuggur, Rajpore and Taki.			

***List of places the Registration of Births and Deaths occurring in which has been directed under Bengal Act IV of 1873 (Registration of Births and Deaths), section 1*—concluded.**

District.	Places.	Date of notification.	Year, Part and page of Calcutta Gazette in which published	Date from which the notification took effect.
	III.—Registration of Deaths.			
DARJEELING . .	The part of the Darjeeling District which lies to the west of the Teesta River.	16th April, 1884.	1884, Part I, p. 542.	1st May, 1884.
DINAGEPORE . .	Municipality of Dinagepore.	12th March, 1886.	1886, Part IB, p. 75.	1st April, 1886.
HOOGHLY . .	Municipalities of Bansberiah, Bhuddessur, Bydabatty and Kotrung. Unions of Bally, Khanakool, Koergunge, Mugra, Pundooah and Shambazar.	16th May, 1881.	1881, Part I, p. 515.	1st July, 1881.
JESSORE . . .	Municipality of Moheshpore.	3rd September. 1887.	1887, Part I, p. 794.	1st October, 1887.
KHOOLNA . . .	Municipalities of Chundureah, Debhatta and Satkhira.			
MOORSHEDABAD .	Municipality of Jungypore.	Ditto . .	1887, Part I, p. 795.	Ditto.
NUDDEA . . .	Municipalities of Beernagore, Comercolly and Kooshtea.	Ditto . .	1887, Part I, p. 794.	Ditto.
24-PERGUNNAHS .	Municipalities of Baduria, Barripore, Busseerhat, Goburdanga, Joynuggur, Rajpore and Taki.			

List of Districts to which Bengal Act I of 1876 (Registration of Muhammadan Marriages and Divorces) has been extended under section 1.

Districts.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date appointed by the notification for the Act taking effect.
Backergunge, Bogra, Chittagong, Dacca, Mymensingh and Rungpore.	24th January, 1876.	1876, Part I, p. 89.	15th February, 1876.
Noakholly	5th June, 1876	1876, Part I, p. 650.	1st July, 1876.
Tipperah	14th October, 1876.	1876, Part I, p. 1311.	1st November, 1876.
Jessore (Subdivisions of Khoolna and Bagirhat)	21st November, 1876.	1876, Part I, p. 1398.	1st December, 1876.
Dinagepore (Sudder Subdivision), Furreedpore, Nuddea (Subdivision of Kooshtea), Pubna, and Rajshahye (Subdivision of Nattore).	8th December, 1876.	1876, Part I, p. 1492.	8th December, 1876.
Rajshahye (Sudder Subdivision) . . .	13th April, 1882.	1882, Part I, p. 384.	13th April, 1882.

List of districts to which Bengal Act III of 1876 (Irrigation) has been extended under section 1.

Districts.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date appointed by the notification for the Act taking effect.
Cuttack, Gya, Hooghly, Midnapore, Patna and Shahabad.	2nd May, 1876	1876, Part I, p. 454.	1st May, 1876.
Balasore	15th April, 1879.	1879, Part I, p. 361.	16th April, 1879.
Sarun	18th August, 1879.	1879, Part I, p. 853.	1st September, 1879.
Burdwan	27th December, 1881.	1881, Part I, p. 1122.	1st January, 1882.
Chumparun	22nd January, 1884.	1884, Part I, p. 240.	29th January, 1884.

List of places to which Bengal Act III of 1879 (Steam-boilers) has been extended under section 1.

Places.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date appointed by the notification for the Act taking effect.
All places in the districts of Hooghly, Howrah and the 24-Pergunnahs within a radius of 30 miles from Calcutta.	15th January, 1880.	1880, Part I, p. 87.	1st February, 1880.
All places in the Raneegunge Subdivision of the Burdwan District.	5th December, 1887.	1887, Part I, p. 988.	1st January, 1888.
All places in the Giridhi Subdivision of the Hazáribágh District, and the Gobindpore Subdivision of the Manbhoom District.	31st July, 1888.	1888, Part I, p. 691.	1st September, 1888.

List of places to which Bengal Act V of 1880 (Vaccination) has been extended under section 1.

District.	Places.	Extent to which extended.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date appointed by the notification for the Act taking effect.
BACKERGUNGE	Municipalities of Burrisal, Jhallokati and Nulchitti.	The whole Act	3rd September, 1887.	1887, Part I, p. 794.	1st October, 1887.
BALASORE	Municipality of Balasore.	Ditto	7th February, 1888.	1888, Part I, p. 105.	.....
BANKOORA	Municipalities of Bankoora and Bishenpore.	Ditto	28th May, 1883.	1883, Part I, pp. 456, 457.	1st July, 1883.
BEERBHOOM	Municipality of Soory.	Ditto	11th June, 1881.	1881, Part I, p. 594.	1st July, 1881.
BHAGULPORE	Sudder Subdivision of Bhagulpore.	Ditto	14th January, 1884.	1884, Part I, p. 193.	15th February, 1884.
BOGRA	Municipality of Bogra.	Ditto	7th December, 1881.	1881, Part I, p. 1075.	1st January, 1882.
	Municipality of Sherepore.		7th September, 1884.	1884, Part I, p. 958.	1st October, 1884.
BURDWAN	Municipalities of Burdwan, Culna, Cutwa, Dainhat and Raneegunge.	Ditto	28th May, 1883.	1883, Part I, p. 456.	1st July, 1883.

List of places to which Bengal Act V of 1880 (Vaccination) has been extended under section 1—continued.

District.	Places.	Extent to which extended.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date appointed by the notification for the Act taking effect.
CHITTAGONG .	Municipality of Chittagong.	The whole Act.	21st February, 1887.	1887, Part IB, p. 58.	1st April, 1887.
CHUMPARUN .	Municipalities of Bettiah and Motihari.	Ditto .	Ditto .	1887, Part IB, p. 49.	Ditto.
CUTTACK .	Cuttack Cantonment.	Ditto	15th August, 1883.	1883, Part I, p. 708.	15th September, 1883.
	Municipality of Cuttack.		18th August, 1884.	1884, Part I, p. 900.	1st September, 1884.
	Municipalities of Jajepore and Kendrapara.		7th February, 1888.	1888, Part I, p. 105.	.....
DACCA . .	Municipalities of Dacca and Naraingunge.	Ditto .	25th June, 1887.	1887, Part IB, p. 175.	1st July, 1887.
DARJEELLING	Municipality of Darjeeling.	Ditto .	25th July, 1884.	1884, Part I, p. 807.	1st September, 1884.
	Municipality of Kurseong.		10th December, 1886.	1886, Part IB, p. 535.	1st January, 1887.
DINAGEPORE .	Municipality of Dinagepore.	Ditto .	10th December, 1886.	Ditto .	Ditto.
DURBHUNGA .	Municipality of Madhubani.	Ditto .	21st February, 1887.	1887, Part IB, p. 49.	1st April, 1887.
FURREEDPORE .	Municipalities of Furreedpore and Madaripore.	Ditto .	3rd September, 1887.	1887, Part I, p. 794.	1st October, 1887.
GYA . . .	Municipality of Gya.	Ditto .	23rd November, 1882.	1882, Part I, p. 952.	1st January, 1883.
HAZÁRIBÁGH	Municipality of Hazáribágh.	Ditto .	10th January, 1885.	1885, Part I, p. 18.	15th January, 1885.
	Municipality of Chatra.		30th June, 1885.	1885, Part I, p. 653.	1st August, 1885.
HOOGHLY	Municipalities of Hooghly and Chinsurah.	Ditto .	19th July, 1881.	1881, Part I, p. 732.	1st September, 1881.
	Municipality of Serampore.		30th January, 1883.	1883, Part I, p. 133.	1st March, 1883.

***List of places to which Bengal Act V of 1880 (Vaccination) has been extended under section 1*—continued.**

District.	Places.	Extent to which extended.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date appointed by the notification for the Act taking effect.
HOOGHLY—*contd.*	Municipality of Utterpara.	The whole Act.	12th March, 1883.	1883, Part I, p. 226.	1st April, 1883.
	Municipalities of Bansberiah, Bhuddessur, Hydabatty and Kotrung.		28th May, 1883.	1883, Part I, p. 458.	1st July, 1883.
	Municipality of Jehanabad.		11th February, 1889.	1889, Part IB, p. 38.	.....
HOWRAH .	Municipality of Howrah.	Ditto .	11th March, 1882.	1882, Part I, p. 257.	1st April, 1882.
	Municipality of Bally.		23rd August, 1884.	1884, Part I, p. 900.	1st October, 1884.
JALPÁIGURI .	Municipality of Jalpáiguri.	Ditto .	10th December, 1886.	1886, Part IB, p. 535.	1st January, 1887.
JESSORE .	Municipalities of Jessore and Moheshpore.	Ditto .	7th July, 1883	1883, Part I, p. 613.	1st October, 1883.
	Municipality of Kotechandpore.		8th January, 1884.	1884, Part I, p. 175	1st February, 1884.
KHOOLNA .	Municipality of Chandureah.	Ditto .	7th July, 1883.	1883, Part I, p. 611.	1st October, 1883.
	Municipality of Debhatta.		Ditto .	1883, Part I, p. 612.	Ditto.
	Municipality of Khoolna.		25th June, 1887.	1887, Part IB, p. 174.	1st July, 1887.
LOHARDUGGA .	Municipality of Ranchi.	Ditto .	21st February, 1887.	1887, Part IB, p. 49.	1st April, 1887.
MALDA .	The English Bazar Municipality.	Ditto .	6th February, 1883.	1883, Part I, p. 160.	1st March, 1883.
	Old Malda Municipality.		21st February, 1887.	1887, Part IB, p. 49.	1st April, 1887.
MANBHOOM .	Municipality of Purulia.	Ditto .	26th November, 1886.	1886, Part IB, p. 521.	1st January, 1887.
MIDNAPORE .	Municipalities of Chunderkona, Ghatal, Kheerpoy, Midnapore and Ramjeebunpore.	Ditto .	28th May, 1883.	1883, Part I, p. 457.	1st July, 1883.

List of places to which Bengal Act V of 1880 (Vaccination) has been extended under section 1—continued.

District.	Places.	Extent to which extended.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date appointed by the notification for the Act taking effect.
MIDNAPORE—*contd.*	Municipality of Tamlook.	The whole Act.	28th May 1883.	1883, Part I, p. 458.	1st July, 1883.
	Municipality of Kharar.		16th August, 1889.	1889, Part IB, p. 176.	.....
MONGHYR .	Municipalities of Jamalpore and Monghyr.	Ditto .	6th November, 1882.	1882, Part I, p. 908.	15th November, 1882.
	Municipality of Jamui.		25th June, 1887.	1887, Part IB, p. 174.	1st July, 1887.
MOORSHEDABAD	Municipality of Berhampore (including cantonments).	Ditto .	7th July, 1883.	1883, Part I, p. 613.	1st October, 1883.
	Municipalities of Jungypore, Kandi and Lalibagh.		Ditto .	1883, Part I, p. 614.	Ditto.
MOZUFFERPORE	Municipality of Mozufferpore.	Ditto .	21st December, 1885.	1885, Part IB, p. 116.	1st January, 1886.
	Municipalities of Seetamurhee and Lalligunge.		21st February, 1887.	1887, Part IB, p. 49.	1st April, 1887.
MYMENSINGH .	Municipalities of Bazitpore, Jamalpore, Kishoregunge, Mooktagacha, Nasirabad and Sherepore.	Ditto .	3rd September, 1887.	1887, Part I, p. 794.	1st October, 1887.
NOAKHOLLY .	Municipality of Noakholly (Sudharam).	Ditto .	21st February, 1887.	1887, Part IB, p. 48.	1st April, 1887.
NUDDEA .	Municipalities of Krishnaghur, Kooshtea, Nuddea, Ranaghat and Santipore.	Ditto .	7th July, 1883.	1883, Part I, p. 612.	1st October, 1883.
	Municipalities of Beernagore, Coomercolly and Meherpore.		Ditto .	1883, Part I, p. 613.	Ditto.
	Municipality of Chogdah.		28th January, 1887.	1887, Part IB, p. 21.	.....

List of places to which Bengal Act V of 1880 (Vaccination) has been extended under section 1—continued.

District.	Places.	Extent to which extended	Date of notification.	Year, Part and page of Calcutta Gazette in which published	Date appointed by the notification for the Act taking effect.
PATNA ..	Municipality of Patna.	The whole Act	10th September, 1884.	1884, Part I, p. 954.	1st October, 1884.
	Municipalities of Barh and Behar.	Ditto .	21st February, 1887.	1887, Part IB, p. 49.	1st April, 1887.
POOREE . .	Municipality of Pooree.	Ditto .	7th February, 1888.	1888, Part I, p. 105.	.....
PUBNA . .	Municipality of Serajgunge.	Ditto .	20th July, 1885.	1885, Part I, p. 768.	.....
			10th December, 1886	1886, Part IB, p. 535	1st January, 1887.
PURNEAH . .	Municipality of Purneah.	Ditto . .	25th June, 1887.	1887, Part IB, p. 174.	1st July, 1887.
RAJSHAHYE .	Municipality of Rampore Beauleah.	Ditto	4th April, 1881.	1881, Part I, p. 397.	1st June, 1881.
	Municipality of Nattore.		10th December, 1886.	1886, Part IB, p. 535.	1st January, 1881.
RUNGPORE .	Municipality of Rungpore.	Ditto .	10th May, 1881.	1881, Part I, p. 406.	1st July, 1881.
SARUN . .	Municipalities of Chupra and Sewan.	Ditto .	21st February, 1887.	1887, Part IB, p. 49.	1st April, 1887.
SHAHABAD .	Municipality of Arrah.	Ditto .	20th July, 1885.	1885, Part I, p. 768.	.....
	Municipalities of Bhubooah, Buxar, Doomraon and Sasseram.	Ditto .	21st February, 1887.	1887, Part IB, p. 49.	1st April, 1887.
SONTHAL PERGUNNAHS.	Towns of Doomka and Rajmahal, and Municipalities of Deoghur and Sahibgunge.	Ditto .	9th April, 1884.	1884, Part I, p. 540.	1st May, 1884.
TIPPERAH .	Thanas of Bramunbariah, Chandeena, Kotwali, Moradnagar and Nobinagore.	Ditto .	31st March, 1884.	1884, Part I, p. 513.	.....

List of places to which Bengal Act V of 1880 (Vaccination) has been extended under section 1—concluded.

District.	Places.	Extent to which extended.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date appointed by the notification for the Act taking effect.
TIPPERAH—*contd*	Municipalities of Bramunbariah and Comillah.	The whole Act	21st February, 1887.	1887, Part IB, p. 48.	1st April, 1887.
24-PERGUNNAHS.	Municipalities of Barripore, Joynuggur and Rajpore, and North Suburban and South Suburban Municipalities.	Ditto .	7th July, 1883.	1883, Part I, p. 609.	1st October, 1883.
	Municipalities of Baraset, North Barrackpore, South Barrackpore (including Cantonment), North Dum-Dum (including Cantonment), South Dum-Dum and Naihati.	Ditto .	Ditto .	1883 Part I, p. 610.	Ditto.
	Municipalities of Baduria, Busseerhat, Goberdanga and Taki.	Ditto .	Ditto .	1883, Part I, p. 611.	Ditto.

List of places in which Bengal Act IX of 1880 (Cess) is in force under the first paragraph of section 2.

Division.	Districts.
BHAGULPORE	Bhagulpore, Malda, Monghyr and Purneah.
BURDWAN	Bankoora, Beerbhoom, Burdwan, Hooghly (including Howrah)* and Midnapore.
CHITTAGONG	Chittagong, Noakholly and Tipperah.
CHOTA NAGPORE	Hazáribágh, Lohardugga and Manbhoom.
DACCA	Backergunge, Dacca, Furreedpore and Mymensingh.
ORISSA	Balasore, Cuttack and Pooree.

* For revenue purposes, Hooghly includes Howrah.

List of places in which Bengal Act IX of 1880 (Cess) is in force under the first paragraph of section 2—concluded.

Division.	Districts.
PATNA	Chumparun, Durbhunga, Gya, Mozufferpore, Patna, Sarun and Shahabad.
PRESIDENCY	Jessore, *Khoolna, Moorshedabad, Nuddea and 24-Pergunnahs.
RAJSHAHYE	Bogra, Darjeeling, Dinagepore, Jalpaiguri, Pubna, Rajshahye and Rungpore.

List of places to which Bengal Act IX of 1880 (Cess) has been extended under the second paragraph of section 2.

Division.	Place.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.	Date appointed by the notification for the Act taking effect.
CHOTA NAGPORE .	Pergunnah Dhalbhoom, in the district of Singhbhoom.	26th September, 1883.	1883, Part I, p. 809.	1st October, 1883.

List of estates, &c., exempted from the operation of Bengal Act IX of 1880 (Cess) by notification under the fourth paragraph of section 2.

Estates, &c.	Extent of exemption.	Date of notification.	Year, Part and page of Calcutta Gazette in which published.
All land held by the Government as part of, or for the purposes of, the Soue Canal.	Exempted from the operation of the Act.	3rd December, 1888 .	1888, Part I, p. 1033.
All land held by the Government as part of, or for the purposes of, the Orissa Canals, the Midnapore Canal, and the Hidjellee Tidal Canal.	Ditto .	22nd January, 1889 .	1889, Part I, p. 47.
All land held as part of, or for the purposes of, railways in Bengal.	Ditto .	Ditto .	Ditto.

* Khoolna has been created a new district from the 1st June, 1882. It includes the subdivisions of Satkhira and Khoolna and Bauseerhat, which formerly formed part of the districts of the 24-Pergunnahs and Jessore, where Bengal Act IX of 1880 was already in force.